

Broad Loophole: S.C. FOIA Exemptions Contained in Other Laws

By:

Mary Katherine Beck

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Approved:

Douglas J. Fisher
Director of Thesis

Cole Blease Graham
Second Reader

Davis Baird
For South Carolina Honors College

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Summary

The South Carolina Freedom of Information Act, like the federal FOI Act, lists a number of clearly stated exemptions. These exemptions tell the public (and reporters) what information the government is not required to disclose and for what reasons. The South Carolina law, like its federal counterpart, also contains broad language that allows for many exemptions to be scattered throughout other laws. These exemptions made possible by S.C. Code Ch. 4 §30-4-40 (a) (4) can present stumbling blocks to citizens or journalists seeking information. This thesis compiles these exemptions in a simple format for easier reference and provides an opportunity to analyze them to determine whether some endeavors are more likely than others to have their information shielded. Organizing this information for the first time can also suggest further lines of inquiry into how such decisions are made to remove government information from public review.

Background information on national and local trends involving exemptions to the Freedom of Information Act helps to explain the exemptions found through this project. Though the public's right to know under the federal FOI Act has bowed to national security concerns after 9/11, South Carolina has traditionally supported the free flow of information. Examining South Carolina courts' judgments in matters relating to the FOIA over time can help explain types of and trends in FOIA exemptions.

The interviews and database research used to find these exemptions yielded hundreds of instances where information is exempt outside those listed specifically in the FOIA. The resulting charts are categorized by government agency or area and include date enacted or date of statutory authority (amendments are not included unless important to the exemption cited). Each entry includes a short summary of the exemption and possible exceptions. The creation of an organized, detailed chart was the main goal of the project, with the object of creating a thorough and functional display that could be used by people seeking information as well as future researchers for whom this organized data may suggest new lines of inquiry.

This guide provides a useful first step of gathering and organizing exemptions to the FOIA that are widely scattered amongst South Carolina's laws. Because several other states have laws that follow similar patterns, it could also serve as a template for similar inquiries elsewhere. Analysis of the results can also uncover trends in the types and numbers of exemptions over a span of years. Ultimately, freedom of information laws allow the public to more effectively oversee the government, and bringing this information together serves to increase that effectiveness.

Introduction

South Carolina's Freedom of Information Act, Ch. 4 §30-4-10 et seq., was originally enacted in 1974 and has been amended several times since, with major revisions made in 1978 and 1987 (Bender, 2001, p. SC-2). It is "patterned roughly after the federal act" (Bender, 2001, SC-3). Other states have comparable laws,¹ so it is not surprising that South Carolina's act also includes language similar to that of the federal FOI Act's third exemption, covering information:

specifically exempted from disclosure by statute...provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld. [5 U.S.C. § 552 (b)(3)]

In the case of South Carolina's FOIA, the exemption is found at §30-4-40 (a)(4) covering "matters specifically exempted from disclosure by statute or law." This is in addition to the 17 other delineated exemptions under §30-4-40 (a).

The exemptions referenced by §30-4-40 (a)(4) are scattered throughout the state code, as are the justifications, if any, for exempting from disclosure the various kinds of government information. As a result, they are subject to judicial interpretation potentially far different than the stated goal of the S.C. FOIA:

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formation of public policy. Toward that end, the provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public meetings or documents. (§30-4-15)

These exemptions outside the FOIA often are small parts of larger bills and as such may not receive the same scrutiny that a direct attempt to amend the FOIA might generate, and their impact might not be felt until the information in question is sought by a member of the public or by the news media. Thus, the lack of an adequate compilation of such exemptions scattered about the flow of laws can hinder the free flow of information. During certain times, such as after the Sept. 11, 2001, terrorist attacks, the federal

¹ Height (2001), for example, cites *Globe Newspaper Co. v. Boston Retirement Board* 388 Mass. 427, 433 n. 11, 446 N.I2d 1052, 1055 n.11, calling Massachusetts' statute "patterned after the federal statute 'in a general way'" (p. MA-4). The exemptions in Michigan's FOIA "generally mirror the exemptions found in the federal FOIA" (Fink, 2001, p. MI-6). Vermont's act is also "patterned in part after the federal exemptions" (Hemley and Pearson, 2001, p. VT-3).

government has broadened exemptions in the federal FOI Act to include information of that previously had been public.²

In South Carolina, the courts generally have ruled mostly in favor of disclosing information, with no significant changes since Sept. 11, 2001. In an Oct. 27, 2006, opinion, Assistant Deputy S.C. Attorney General Robert D. Cook reiterated the state's view on the broad role of the FOIA as set out in an April 11, 1988 opinion by then-Attorney General T. Travis Medlock. The 1988 opinion cites findings from other cases to define the role of the FOIA, including:

- [A]s with any statute, the primary objective in construing the provisions of the Freedom of Information Act is to give effect to the Legislature's intent. *Bankers Trust of S.C. v. Bruce*, 275 S.C. 35, 267 S.E.2d 424 (1980).
- South Carolina's Freedom of Information Act was designed to guarantee to the public reasonable access to certain information concerning activities of the government. *Martin v. Ellisor*, 266 S.C. 377, 213 S.E.2d 732 (1975).
- The Act is a statute remedial in nature and must be liberally construed to carry out the purpose mandated by the General Assembly. *S.C. Dept. of Mental Health v. Hanna*, 270 S.C. 210, 241 S.E.2d 563 (1978).
- Any exception to the Act's applicability must be narrowly construed. *News & Observer Publishing Co. v. Interim Bd. of Ed. for Wake Co.*, 29 N.C. App 37, 223 S.E.2d 580 (1976).

Cook (2006) adds more recent cases to back up those listed in the 1981 opinion:

- FOIA exemptions are to be narrowly construed to fulfill the purpose of the act to guarantee the public reasonable access to certain activities of government. *Evening Post Publishing Co. v. City of North Charleston*, 363 S.C. 452, 611 S.E.2d 496 (2005).
- The "FOIA is remedial in nature and should be liberally construed to carry out the purpose mandated by the legislature." *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 547 S.E.2d 862 (2001).

The danger of putting so many exemptions outside the FOIA is that they will be interpreted more broadly than the framers of the open records law intended. In the case of the federal FOI Act, for instance, even its clearly stated exemptions have been interpreted broadly (Kleeman, 1990, p. 16). For instance, the federal FOI's seventh exemption keeps from disclosure:

² This includes, according to Leahy and Cornyn (2006) "an overly broad FOIA waiver in the charter for the Department of Homeland Security—the biggest single rollback of FOIA in its history" and intelligence agencies "quietly reclassifying 55,000 pages of documents that for years were publicly available" (p.4). Leahy (D-Vermont) and Cornyn (R-Texas) have also authored legislation that would mandate that exemptions to the federal FOI Act be stated within the text of the act. Shapiro and Steinzor (2006) cite a 2001 memorandum by then-Secretary of State John Ashcroft "warning agencies that any decision to release information under FOIA that might be kept confidential by claiming an exemption from disclosure 'should be made only after full and deliberate consideration of the institutional, commercial, and personal privacy interests that could be implicated by disclosure of the information'" (p. 99).

[R]ecords or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual. [5 U.S.C. § 552 (b)(7)]

However, Kleeman notes that in *John Doe Agency v. John Doe Corporation*³ (later revealed to represent Defense Contract Audit Agency and the FBI), the court ruled that even in cases where information was not originally gathered for a law enforcement purpose, if it was later "compiled" during an investigation, it became exempt from disclosure. Kleeman quotes *Editor & Publisher* as calling the exemption "another roadblock in front of reporters who try to report what is going on at the Department of Justice" (p. 16).

Providing justification for expanding federal FOI Act exemptions became easier after Sept. 11, 2001. A memo by then White House chief of staff Andrew Card called for "classification or reclassification of information on weapons of mass destruction" and it revived "dormant government efforts to withhold 'sensitive but unclassified' information for national security reasons—even when the Freedom of Information Act's exemption for national security does not apply" (*The Quill*, 2002, p. 29). However, the attempted expansion of some federal FOIA exemptions was rejected in 2005 by U.S. District Judge Alvin Hellerstein, who ruled that CIA files are subject to the FOIA when the agency's conduct is being investigated, rejecting the CIA's assertion that such files are "operational" (*The Quill*, 2002, p. 29).

So far, South Carolina courts have been less willing to allow law enforcement to exempt more information. In a 2004 York County case, for instance, the S.C. Court of Appeals "rejected the argument of the Sheriff's Department that it was not a 'public body' as defined by the FOIA and was therefore not subject to its strictures" (*Municipal Litigation Reporter*, 2004, p. 34). The court also found that the information would not constitute invasion of privacy and so could not be exempted from disclosure.

³*John Doe Agency v. John Doe Corp.* No. 88-1083, SUPREME COURT OF THE UNITED STATES. 493 U.S. 146; 110 S. Ct. 471; 107 L. Ed. 2d 462.

In addition, the South Carolina Supreme Court ruled in 2005 (in the Evening Post Publishing case⁴) that a 911 tape to be used in a lynching trial was not exempt from disclosure under § 30-4-40 (a) (3) (B), which prevents "the premature release of information to be used in a prospective law enforcement action." The court found that releasing the information would not harm the investigation and so the tape was not exempt (*Municipal Litigation Reporter*, 2005, p.17).

In South Carolina, no comprehensive collection exists of other exemptions allowed under § 30-4-40 (a) (4), making it a potential minefield for anyone seeking information from the state. Such a legislative compilation would help state and local officials and those seeking information (usually, but not always, reporters and other news gatherers) to better understand what is and is not public record. Better illuminating the scope of such exemptions could facilitate legislative or legal action if such exemptions appear unfair. This project's goal was to compile information on these exemptions and analyze their impact to produce a guide for both the public and the government.

Method

The data was compiled through a two-pronged approach. First, a series of interviews was conducted with lawyers familiar with South Carolina FOIA, with knowledgeable officials from government agencies, such as the South Carolina Department of Health and Environmental Control, and with interested private groups, such as the South Carolina Municipal Association. Those interviews guided the research toward relevant parts of the state code and to related sources of information, including whom to speak to next.

Most of the exemptions were found by searching through the South Carolina Code of Laws and Code of Regulations using two electronic databases, LexisNexis and the state General Assembly's own online searchable code of laws.⁵ Several key phrases like "confidential," "disclosure," and "Freedom of Information Act" produced significant results within these databases. The S.C. General Assembly's database is unannotated, but LexisNexis offered additional information, such as Attorney General's opinions and dates of specific amendments. The S.C. Code of Laws yielded 171 exemptions while the Code of Regulations yielded 54.

Research Questions

By listing and analyzing exemptions to the South Carolina FOIA that are not explicitly named in the act, trends in the implementation of the act can be revealed. The type of exemptions made reveal the priorities of the government and whether it exempts information that the public might want to know. This leads to the first research question:

RQ1: What kinds of exemptions are most common?

⁴ Evening Post Publ. Co. v. City of N. Charleston, Opinion No. 25962 , SUPREME COURT OF SOUTH CAROLINA, 363 S.C. 452; 611 S.E.2d 496.

⁵ www.scstatehouse.net

Finding the agencies that most often have exemptions falling within their areas sheds additional light on the types of exemptions made and also shows people seeking to make FOIA requests where getting information can be harder. This proposes a second research question:

RQ2: Does any agency have a clustering of exemptions?

Noting the number of exemptions over time reflects legislative attitudes toward disclosing information (especially dealing with homeland security issues after Sept. 11, 2001) and suggests the third and fourth research questions:

RQ3: Has there been a shift in the number of exemptions over time?

RQ4: Was there a spike in the number of exemptions made after Sept. 11, 2001?

Findings:

Table 1. Exemptions found in the S.C. Code of Laws.

	Department/ Area	S.C. Code of Laws	Year	Summary of What Is Exempted
1	Agriculture	46-9-35	2002	Licensing exams and exam questions maintained or administered by the State Crop Pest Commission, its agents, or employees
2	Agriculture	46-25-210	2002 (amendment to 1962 law)	Identifying information related to the holder of a general or restricted fertilizer permit (homeland security purposes)
3	Agriculture	46-25-860	1962	Amount of fertilizer sold and business practices of any guarantor obtained from tonnage reports or from inspection of records or books
4	Agriculture	46-50-30	1998	Information acquired by commission officers, employees, or agents dealing with the recordkeeping of regulated milk businesses under the Southern Interstate Dairy Compact
5	Banking, Financial Institutions and Money	34-11-90	1962	Record of expunged conviction for writing a fraudulent check (one year after first offense)
6	Banking, Financial Institutions and Money	34-28-410	1985	Records dealing with accounts, loans, and voting rights of depositors, borrowers, and stockholders, except when authorized by account holder
7	Banking, Financial Institutions and Money	34-30-160	1997	Books and records of a state savings bank

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8	Banking, Financial Institutions and Money	34-30-590	1997	Information compiled during an investigation of any association; collateral given by a borrower, amount of stock owned by a stockholder; stockholder lists; accounts of a customer; complaints about state savings banks that could result in an investigation
9	Banking, Financial Institutions and Money	34-36-50	1992	Material compiled in an investigation or examination of a loan broker by the department until the examination is over or final action is taken
10	Consumer Protection Code	37-3-505	1976	Information described in annual reports relating to supervised loans (may only be published in composite form)
11	Corrections, Jails, Probations and Pardons	24-21- 1150	2002	Any information or records of the Interstate Commission (for adult offender supervision) that would adversely affect personal privacy or proprietary interests, can disclose or trade confidential information with other law enforcement agencies
12	Counties	4-10-90, 4-10-370, 4-37-30	1990, 1997, 1995	Information about individual taxpayers given to the State and county treasurers by the Department of Revenue, including but not limited to gross receipts, net taxable sales, and tax liability by taxpayers
13	Counties	4-10-600	2000	Information supplied to counties and municipalities upon request by the Board of Economic Advisors about individual taxpayers including but not limited to gross receipts, net taxable sales, and tax liability by taxpayers

	Department/ Area	S.C. Code of Laws	Year	Summary of What Is Exempted
14	Counties	4-10-790	2006	Information supplied to the state treasurer and political subdivisions by the Office of Research and Statistics about individual taxpayers including but not limited to gross receipts, net taxable sales, and tax liability by taxpayers
15	Crimes and Offenses	16-3-740	1988	Results of HIV, Hepatitis B, and STD tests taken by convicted offenders
16	Crimes and Offenses	16-3-1240	1982	Records of the Board, panel, director, and staff of the Victim's Advisory Board
17	Crimes and Offenses	16-3-1525	1997 (also 2005 amendment)	Names, addresses, and telephone numbers of victims and witnesses contained in files of a jail, prison, detention or holding facility, or mental health facility
18	Crimes and Offenses	16-3-1535, 16-3-1555	1996 (also 2005 amendment), 1997	Names, addresses, and telephone numbers of victims and prosecution witnesses from the records of the Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, and the Department of Juvenile Justice
19	Crimes and Offenses	16-3-1640	1994	Information requested and received by the Crime Victim's Ombudsman of the Office of the Governor
20	Domestic Relations	20-7-85	2000	Identifying information of a person leaving an infant at a safe haven
21	Domestic Relations	20-7-126	1988	Information maintained by the Guardian ad Litem program (Director or designee may disclose information from child services records, but only discussion of the program's activities in the case or previously published information)

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22	Domestic Relations	20-7-510	1981 (also 1999 amendment)	Identity of a person making a report that a child has been or may be abused or neglected, except to law enforcement
23	Domestic Relations	20-7-680	1981	Information in the Central Registry of Child Abuse and Neglect
24	Domestic Relations	20-7-690	1981	Information collected by the Department of Social Services and the Central Registry of Child Abuse and Neglect pursuant to intervention by child welfare agencies (Director or designee may disclose discussion of the program's activities in the case)
25	Domestic Relations	20-7-1360	1981	Family court records relating to juveniles
26	Domestic Relations	20-7-1580	1981	Records pertaining to termination of parental rights
27	Domestic Relations	20-7-1780	1981 (also 1986 and 1987 amendments)	Adoption papers and records filed with the clerk of court and records of adoption proceedings from the Department of Social Services or any authorized agency
28	Domestic Relations	20-7-5655	1997	Records, reports, applications, and files kept on clients and potential clients of Continuum of Care For Emotionally Disturbed Children
29	Domestic Relations	20-7-5960	1993	Everything acquired by the State Child Fatality Advisory Committee and Department of Child Fatalities in exercising their duties, can be disclosed if necessary to carry out duties and purposes; all records except those available from other sources
30	Domestic Relations	20-7-8510	1996	Information and records (about a child) used in the discharge of official duty by court or juvenile justice department employees, fingerprints or photographs taken

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31	Domestic Relations	20-7-8515	1996	Law enforcement records of children and information identifying children (child is defined as someone under 18 years old)
32	Domestic Relations	20-7-8800	2006	Any Interstate Commission for Juveniles records or information that would adversely affect personal privacy or proprietary interests
33	Education	59-153-80	1999	Investment decisions or deliberations made by the Board of Trustees of an institution of higher learning when acting as trustee of the endowment fund
34	Environmental Protection and Conservation	48-20-50	1990	Application and certificate of exploration (South Carolina Mining Act)
35	Environmental Protection and Conservation	48-43-30	1977	Log and samples of exploratory oil, gas, or wildcat wells; expires after one year unless request for additional year is filed
36	Fish, Game, and Watercraft	50-5-380	2000	Information on fisheries which is required by any state or federal law to be kept confidential; noncommercial information provided to the department in support of a resource or management activity
37	General Assembly	2-15-120	1981	Records and audit working papers of the Legislative Audit Council
38	General Assembly	2-17-90	1991	Gifts to state employees by lobbyists, if disclosure would harm negotiations in an economic development project (must get prior written approval); can disclose later when approving official deems appropriate
39	General Assembly	2-19-30	1975	Information that has been gathered by the Judicial Merit Selection Commission about a judge or justice candidate who has withdrawn from consideration

	Department/ Area	S.C. Code of Laws	Year	Summary of What Is Exempted
40	General Assembly	2-19-50	1975	All records, information and other material that the Judicial Merit Selection Commission has used to make findings of fact, except those presented under oath at the public hearing
41	General Assembly	2-20-50	1996	All records, information and other material the joint committee (of four House and four Senate members) has used to make findings of fact (for nonjudicial screenings and elections), except those presented under oath at the public hearing
42	Health	44-1-110	1962	Patient-identifying information from DHEC's records
43	Health	44-6-180	1985	Patient records involved in the administration of the Medically Indigent Assistance Program or the data collected by the Data Oversight Council
44	Health	44-7-2590	1989	Information related to children and families affected by the Infants and Toddlers with Disabilities Act
45	Health	44-20-340	1990	Identity of a person whose condition or treatment has been studied by the Department of Disabilities and Special Needs
46	Health	44-22-100	1991	Prohibits disclosing records that identify someone as mentally ill, an alcohol or drug abuse patient, or having been committed; exceptions for consent, court proceedings and cooperation with other state or federal agencies to help the patient
47	Health	44-23- 1100	1962	Completed forms of mentally ill or retarded patients retained by probate judges
48	Health	44-26-130	1992	Communications between mental retardation clients and mental retardation professionals, with exceptions for consent, court proceedings and research by the department

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49	Health	44-29-135	1978	Information held by DHEC and agents relating to known or suspected cases of sexually transmitted diseases
50	Health	44-29-250	1996	Results of anonymous HIV tests
51	Health	44-30-60	1992	Records of expert review panel developed by the health department to follow CDC regulations
52	Health	44-31-20	1962	Reports and records of clinical laboratory examination for the presence of tuberculosis
53	Health	44-35-40	1962	Information that could identify cancer patients
54	Health	44-37-30	1962	Neonatal testing results and blood samples
55	Health	44-38-60	1992	Reports and records of the Head and Spinal Cord Injury Information system, identities of involved patients, physicians, and hospitals
56	Health	44-40-50	1986	Identity of veteran about whom information is received for the Agent Orange Information and Assistance Program
57	Health	44-44-30	2004	Referrals for treatment from the South Carolina Birth Defects Program within DHEC
58	Health	44-44-120	2004	Birth defects information collected by the South Carolina Birth Defects Program
59	Health	44-53-398	2006	Log of ephedrine and pseudoephedrine sales kept by retailers, including names and addresses of customers, amount of ephedrine or pseudoephedrine products sold, and the date and time of the sale

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60	Health	44-53-530	1962	Confidential financial accounts to be used by law enforcement to purchase information or evidence relating to an investigation, services, or provide compensation in confidential matters that support law enforcement activity (deals with narcotics and controlled substances)
61	Health	44-53-1360	1979	Examinations for lead poisoning in children
62	Health	44-53-1650	2006	Prescription information submitted to drug control
63	Health	44-61-160	2004	Identities of patients, emergency and critical care medical services personnel, and emergency and critical care services mentioned in connection with EMS; identities of patients, physicians, or hospitals; info from emergency practices review committee
64	Health	44-61-550	2004	Records and reports of the Trauma Registry
65	Highways, Bridges and Ferries	57-5-1495	1998	Information collected by the Department of Transportation or authorized agent to establish and monitor electronic toll collection accounts; also all data, photographs, or other recorded images
66	Insurance	38-9-380	1996	Risk-based capital reports and plans, adjusted risk-based capital reports, and corrective orders issued by the director
67	Insurance	38-13-30	1976	Work papers, recorded information, documents and copies held by the director, his designee, or others in the course of an investigation

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68	Insurance	38-13-85	1988	Financial analysis ratios and examination synopses concerning insurers submitted to the department by the National Association of Insurers Regulatory Information System
69	Insurance	38-13-160	1976	Authorized insurers' or their employees' replies to director or designee's inquiries about transactions, conditions, or other matters necessary to the administration of state insurance laws
70	Insurance	38-13-400	1994	Reports obtained by director or designee containing insurers' material acquisitions and disposition of assets or material nonrenewals, cancellations, or revisions of ceded service agreements
71	Insurance	38-19-1200	1998	Information disclosed to the Director of the Department of Insurance or others when preparing, filing, or processing an application to reorganize (except information given to policyholders in connection with the meeting of policyholders)
72	Insurance	38-21-290	1976	Information, documents, or copies disclosed to the director or any other person in the course of an examination made pursuant to the Insurance Holding Company Regulatory Act
73	Insurance	38-26-50	1991	Proceedings, hearings, notices, correspondence, reports, and records in possession of the director, his designee, or the Department of Insurance relating to the supervision of an insurer

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74	Insurance	38-27-230	1976	In proceedings and judicial reviews under the Insurers' Liquidation and Rehabilitation Act, records and documents of the insurer, insurance department files, and court records and papers pertaining to the proceedings
75	Insurance	38-33-110	1976	Information concerning complaints and malpractice claims filed against the HMO
76	Insurance	38-33-260	1976	Data pertaining to diagnosis, treatment, or health of any enrollee or applicant obtained by any HMO
77	Insurance	38-43-55	2002	Documents or materials in control of the Department of Insurance that is furnished by an insurer, producer, or their employees or agents or obtained in an investigation
78	Insurance	38-43-106	1991	Information obtained by a continuing education advisory committee in the course of its duties
79	Insurance	38-55-75	2001	Documents or information received from the National Association of Insurance Commissioners or other regulatory officials which are classified as confidential by that association or state
80	Insurance	38-73-1330	1976	Information submitted by a ratings organization for examination when insurers fail to correct mistakes brought to their attention within 60 days
81	Insurance	38-77-850	1997	Information filed with the director by an insurance carrier in relation to an assigned risk

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82	Insurance	38-79-20	1988	Information related to parties involved in medical malpractice judgments
83	Insurance	38-79-160	1987	Loss, claim, expense or statistical data related to medical malpractice suits (collected by the director of the South Carolina Medical Malpractice Liability Joint Underwriting Association)
84	Insurance	38-90-120	2000	Information filed with the director by a captive insurance company while seeking a license
85	Insurance	38-90-70	2000	Financial condition reports submitted to the director by a captive insurance or captive reinsurance company
86	Insurance	38-90-80	2000	Reports, working papers, documents, and other information gathered by the director while examining a captive insurance company
87	Insurance	38-90-560	2004	Reports, working papers, documents, and other information gathered by the director while examining a special purpose financial captive insurance company
88	Insurance	38-93-30	1998	Genetic information that allows identification of the individual tested
89	Labor and Employment	41-1-5	1997	Information and test results received by the employer through a substance abuse testing program
90	Labor and Employment	41-25-80	1962	Records and files of all applicants, customers, job orders, and related data of a private personnel placement service
91	Labor and Employment	41-35-125	2005	Evidence of domestic abuse acquired by the commission while awarding benefits for those unemployed due to domestic abuse

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92	Law Enforcement and Public Safety	23-3-260	1985	Identifying information maintained at the Missing Person Information Center
93	Law Enforcement and Public Safety	23-3-650	1994	Results of DNA profiles and DNA samples stored by SLED or equally secure facility for the state DNA database
94	Law Enforcement and Public Safety	23-47-65	1998	Proprietary information submitted by CMRS providers or PSAPs, can be released only in aggregate amounts that do not show numbers of subscribers or revenues for individual CMRS providers
95	Law Enforcement and Public Safety	23-47-75	1998	CMRS location information obtained by safety personnel or for public safety personnel for public safety purposes
96	Libraries, Archives, Museums, and Arts	60-4-10	1985	Records identifying library patrons
97	Magistrates and Constables	22-5-910	1992	Nonpublic record of expunged offenses (after three years following a first offense conviction in magistrates court or municipal court)
98	Magistrates and Constables	22-5-920	2003	Nonpublic record of expunged offenses (after 15 years following a first offense conviction by a youthful offender in magistrates court or municipal court)
99	Motor Vehicles	56-1-221	1988	Reports received or made by the medical advisory board on whether a person is qualified to be licensed
100	Motor Vehicles	56-1-3380	1993	Information from an application for the issue, renewal, or replacement of a special identification card
101	Motor Vehicles	56-5-750	1962	Record of expunged conviction (three years after first offense)

	Department/ Area	S.C. Code of Laws	Year	Summary of What Is Exempted
102	Motor Vehicles	56-5-1340	1962	Accident reports made by persons involved in the accident (reports by law enforcement are not exempt)
103	Motor Vehicles	56-5-1360	1962	Accident reports to a municipality made by persons involved in the accident
104	Planning, Research, and Development	13-17-85	2005	Negotiations considering a research park or facility site in South Carolina (unless industry or business concern gives permission), information on pending or incomplete research projects
105	Ports and Maritime Matters	54-7-100	1996	Locations of submerged archaeological historic properties (originally applied to H.L. Hunley)
106	Professions and Occupations	40-2-80	1996	Documents submitted in support of a complaint against a certified public accountant or public accountant or materials collected in an investigation
107	Professions and Occupations	40-2-90	2004	Investigations, inquiries, and proceedings undertaken by the board when a violation may have occurred
108	Professions and Occupations	40-2-190	1996	Information from the client relating to services rendered (by accountant)
109	Professions and Occupations ⁶	40-3-190	1998	Investigations and proceedings (related to complaints against architects)
110	Professions and Occupations	40-6-190	1977	Investigations and proceedings (related to complaints against auctioneers)
111	Professions and Occupations	40-7-190	1962	Investigations and proceedings (related to complaints against barbers)
112	Professions and Occupations	40-10-190	2005	Investigations and proceedings (related to complaints against fire sprinkler contractors)

⁶ In this and similar exemptions, the final order of each profession's respective disciplinary board is not confidential information.

	Department/ Area	S.C. Code of Laws	Year	Summary of What Is Exempted
113	Professions and Occupations	40-11-190	1962	Investigations and proceedings (related to complaints against contractors)
114	Professions and Occupations	40-13-190	1962	Investigations and proceedings (related to complaints against cosmetologists)
115	Professions and Occupations	40-15-180	1962	Investigations and proceedings (related to complaints against dentists, dental hygienists, and dental technicians)
116	Professions and Occupations	40-15-215	1986	Information, investigations, and proceedings concerning action (limitation or surrender) of a holder of license or certificate
117	Professions and Occupations	40-19-190	1962	Investigations and proceedings (related to complaints against embalmers and funeral directors)
118	Professions and Occupations	40-22-190	1991	Investigations and proceedings (related to complaints against engineers and land surveyors), final order of the board is public
119	Professions and Occupations	40-22-230	1991	Comments from references when applying for an engineering or land surveying license
120	Professions and Occupations	40-23-190	2002	Information relating to allegations of misconduct or incapacity (environmental certification board)
121	Professions and Occupations	40-29-170	1989	Investigations confidential until complete (Uniform Standards Code for Manufactured Housing)
122	Professions and Occupations	40-33-116	2004	Orders requiring nursing licensees or applicants to submit to mental or physical exams, decisions of administrative hearing officers
123	Professions and Occupations	40-33-190	2004	Confidential investigative files, identities of complainants or witnesses (Nurse Practice Act)
124	Professions and Occupations	40-33- 1325	2005	Licensee's participation in an alternative program instead of receiving punishment from the board (Nurse Licensure Compact)

	Department/ Area	S.C. Code of Laws	Year	Summary of What Is Exempted
125	Professions and Occupations	40-35-190	1997	Investigations and proceedings (related to complaints against long term health care administrators)
126	Professions and Occupations	40-36-190	1977	Investigations and proceedings (related to complaints against occupational therapists)
127	Professions and Occupations	40-37-190	2005	Investigations and proceedings (related to complaints against optometrists)
128	Professions and Occupations	40-38-190	1982	Investigations and proceedings (related to complaints against opticians)
129	Professions and Occupations	40-39-90	1962	Pawnbrokers' loan records that identify individuals
130	Professions and Occupations	40-45-190	1998	Investigations and proceedings (related to complaints against physical therapists)
131	Professions and Occupations	40-47-36	2006	Criminal background checks done on physicians, surgeons, and osteopaths applying for licenses to practice
132	Professions and Occupations	40-47-114	2006	Orders requiring licensees or applicants to submit to professional competency, mental or physical exams, decisions of administrative hearing officers
133	Professions and Occupations	40-47-114	2006	Identity of complainant, agreements between the respondent and department that are marked as private
134	Professions and Occupations	40-47-190	1962	Patient records and identities, identity of minors or sexual battery victims, confidential informants and other witnesses, confidential investigative files
135	Professions and Occupations	40-47-745	2005	Oral or written communications related to revocation, suspension or restriction of a license if person presents self as an acupuncturist or auricular detoxification specialist without being licensed to do so
136	Professions and Occupations	40-55-130	1962	Investigations and proceedings (related to complaints against psychologists)

	Department/ Area	S.C. Code of Laws	Year	Summary of What Is Exempted
137	Professions and Occupations	40-58-65	1980	Information obtained by the department when examining the books and records of a mortgage broker
138	Professions and Occupations	40-59-190	2002	Investigations and proceedings (related to complaints against residential home builders)
139	Professions and Occupations	40-60-190	1991	Investigations and proceedings (related to complaints against real estate appraisers)
140	Professions and Occupations	40-61-80	1962	Investigations and proceedings (related to complaints against sanitarians)
141	Professions and Occupations	40-63-90	1982	Investigations and proceedings (related to complaints against social workers)
142	Professions and Occupations	40-68-40	1993	Information proving net worth when applying for a license to operate a professional employer organization
143	Professions and Occupations	40-75-90	1985	Investigations and proceedings (related to complaints against professional counselors and marriage and family therapists)
144	Professions and Occupations	40-75-190	1985	Records of treatments maintained by a licensed professional counselor or marriage and family therapist
145	Professions and Occupations	40-77-190	1986	Investigations and proceedings (related to complaints against geologists)
146	Professions and Occupations	40-79-190	2000	Investigations and proceedings (related to complaints against people in the alarm system business)
147	Professions and Occupations	40-81-190	2003	Oral or written communication to the State Athletic Commission, the director of the commission or a representative that relates to the discipline of a licensee
148	Professions and Occupations	40-82-190	1999	Investigations and proceedings (related to complaints against people in the liquid petroleum gas business)

	Department/ Area	S.C. Code of Laws	Year	Summary of What Is Exempted
149	Professions and Occupations	40-82-310	1999	Reports filed concerning explosions of the equipment or gas system a person has serviced
150	Public Finance	11-7-35	2002	All audit working papers and memoranda of the State Auditor except final audit reports
151	Public Finance	11-35-410	1981 (also 1997 and 2006 amendments)	Responses to a request for proposals (RFP); customer lists, design recommendations and concepts, prospective problems under an RFP, biographical data on key employees of the bidder, predecisional documents not incorporated into the contract award
152	Public Officers and Employees	8-11-94	1981	Names of state employees authorizing deductions for charitable contributions and the amount of the individual contributions (except for tax purposes)
153	Public Officers and Employees	8-11-110	1962	Medical records of employees seeking help with alcoholism
154	Public Officers and Employees	8-13-320	1991	Investigations, inquiries, and hearings by the State Ethics Commission and accompanying documents unless respondent waives right to confidentiality or matter is dismissed
155	Public Officers and Employees	8-13-540	1991	Preliminary and investigation records of the ethics commission
156	Public Officers and Employees	8-13-1170	1991	Technical (unintentional) violations of disclosure requirements on statements of economic interest, unless the public official, employee, or member filing the statement requests it be made public
157	Public Officers and Employees	8-13-1372	1991	Technical (unintentional) violations on campaign reports, unless the candidate filing the report requests it be made public

	Department/ Area	S.C. Code of Laws	Year	Summary of What Is Exempted
158	Public Officers and Employees	8-17-345	1996	Records, reports, documents, discussion, and other information received by the mediator-arbitrator when mediating appeals relating to adverse employment actions
159	Public Officers and Employees	8-17-360	1982	Records, reports, documents, discussion, and other information received by a State Human Resources Director-appointed mediator used in mediation conferences
160	Public Utilities, Services and Carriers	58-12-330	2006	Cable television franchise holders' quarterly statements of revenue and money owed to the county or municipality the franchise holder operates in
161	Public Utilities, Services and Carriers	58-12-340	2006	Negotiations and mediations between a municipality or county and a franchise authority
162	Retirement Systems	9-16-80	1998	Records that disclose deliberations or decisions by board or commission (in executive session) dealing with investments or financial matters, if disclosure could hinder investments
163	Securities	35-1-607	2005	Records obtained for an audit; part of a record filed in connection with a registration statement; social security numbers, home telephone numbers or addresses; information nondisclosable because of the public interest and interests of investors
164	Social Services	43-1-160	1962	Information concerning applicants and recipients of public assistance (except for purposes connected with the administration of the applicable program or as authorized by state or federal regulations)
165	Social Services	43-31-150	1962	Applicants and recipients of vocational rehabilitation
166	Social Services	43-35-590	2006	Information and records acquired by the Vulnerable Adult Fatalities Review Committee in exercise of their duties and responsibilities

	Department/ Area	S.C. Code of Laws	Year	Summary of What Is Exempted
167	Taxation	12-54-220	1985	Information received as a result of an exchange of information between South Carolina and the Internal Revenue Service or any other state
168	Taxation	12-54-230	1988	Employer's Quarterly Report or information extracted from it
169	Trade and Commerce	39-51-110	1975	Antifreeze formula disclosed to Commissioner for registration purposes
170	Trade and Commerce	39-73-330	1993	Information obtained by an administrator through a private investigation
171	Worker's Compensation	42-3-195	1993	Information and statistics provided to the Commissioner of Labor to use for scheduling of inspections for compliance with occupational safety and health rules and regulations and statistical evaluation of hazards

Table 2. Exemptions found in the S.C. Code of Regulations.

	Department/ Area	S.C. Code of Regulations	Statutory Authority (If Listed)	Summary of What Is Exempted
1	Agriculture	5-3		Information acquired when investigating trade practices hindering the marketing of soybean products
2	Agriculture	5-12		Reports made under Marketing Orders dealing with amount of soybeans purchased or handled and assessments deducted
3	Agriculture	5-32		Information acquired when investigating trade practices hindering the marketing of sweet potato products
4	Agriculture	5-42		Reports made under Marketing Orders dealing with amount of sweet potatoes purchased or handled and assessments deducted
5	Agriculture	5-92		Information acquired when investigating trade practices hindering the marketing of pork products
6	Agriculture	5-172		Reports made under Marketing Orders dealing with amount of peanuts purchased or handled and assessments deducted
7	Consumer Affairs	28-600	1976 Code Sections 37-3-503, 37-6-104, 37-6-403, 37-6-506, 37-11-80 and 40-68-20	Records, reports or documents of an examination of a continuing care provider deemed by state or federal law to be confidential
8	Disabilities and Special Needs	88-390	Article 3 of Chapter 21 of Title 44 of the 1976 Code and Act 1057 of 1976	Records of campers at recreational camps for mentally retarded persons
9	Disabilities and Special Needs	88-440	Article 3 of Chapter 21 of Title 44 of the 1976 Code and Act 1057 of 1977	Records of participants in day programs for mentally retarded persons

	Department/ Area	S.C. Code of Regulations	Statutory Authority (If Listed)	Summary of What Is Exempted
10	Health and Environmental Control	61-21		Information and reports in connection with positive test results for sexually transmitted diseases, identities of people with HIV
11	Health and Environmental Control	61-45		Information identifying individuals with cancer, data from cancer reports
12	Health and Environmental Control	61-80		Information from screenings for inborn metabolic errors and hemoglobinopathies
13	Health and Environmental Control	61-91	1976 Code Sections 44-7- 260 and 44-7- 370(A), as amended 2000	Patient records for ambulatory surgical facilities
14	Health and Environmental Control	61-108	1976 Code Ann. Section 44-7- 265 (as amended)	Patient records for mobile units
15	Health and Environmental Control	61-111	1976 Code Ann. Section 44-34- 10, et seq. (as amended)	Tattoo parlors' client information
16	Health and Environmental Control	61-4	S.C. Code Section 44-53- 280(a)	Records of patients in connection with the narcotic treatment program
17	Health and Environmental Control	61-7	1976 Code Ann. Section 44-61- 30 and 44-78-65 (as amended)	Emergency medical services patient care reports
18	Health and Environmental Control	61-12		Abortion clinic records
19	Health and Environmental Control	61-13		Social service records for clients at habilitation centers for the mentally retarded
20	Health and Environmental Control	61-16		Hospital medical records
21	Health and Environmental Control	61-17		Social service records for nursing home clients

	Department/ Area	S.C. Code of Regulations	Statutory Authority (If Listed)	Summary of What Is Exempted
22	Health and Environmental Control	61-77		Patient records for home health agencies
23	Health and Environmental Control	61-78		Patient records for hospices
24	Health and Environmental Control	61-84		Resident records for community residential care facilities
25	Health and Environmental Control	61-90		Chiropractic facilities' adjustment records
26	Health and Environmental Control	61-93		Client records for facilities that treat psychoactive substance abuse or dependence
27	Health and Environmental Control	61-102		Records for birthing centers for delivery by midwife
28	Health and Environmental Control	61-103	1976 Code 44-7- 260	Records for residential treatment facilities for children and adolescents
29	Labor, Licensing and Regulation	81-12.5	1976 Code Sections 40-1- 70, 40-47-20 and 40-47-80	Identity of person making initial misconduct complaint against physician or osteopath
30	Labor, Licensing and Regulation	120-11.4	1976 Code Section 40-69- 70 et seq.	Information and documents pertaining to complaints and hearings against veterinarians
31	Labor, Licensing and Regulation	100-4		Psychological assessment results and interpretations
32	Labor, Licensing and Regulation	71-1102	1976 Code Sections 41-15- 210 and 23-9-60	Occupational Safety and Health files (until employer receipt of citation); OSH discrimination files; witness identity and statements, complainants' identity, financial statements, employers' accident and injury records; OSH consultation
33	Labor, Licensing and Regulation	25-9	1976 Code Section 40-90- 30, as amended	Proceedings and documents related to complaints and hearings dealing with discipline of a chiropractor

	Department/ Area	S.C. Code of Regulations	Statutory Authority (If Listed)	Summary of What Is Exempted
34	Natural Resources	121-8.14	1976 Code Sections 48-43-10 et seq.	Logs, cuttings, and cores obtained from any exploratory or wildcat well, for one year (additional year can be given if South Carolina Water Resources Commission deems appropriate)
35	Natural Resources	121-10.8	1976 Code Sections 48-43-10 et seq.	Disclosure of particular water use information (other than amount used, diverted, withdrawn, obtained, or returned) that would reveal trade secrets or compromise national security
36	Social Services	114-130	1976 Code Section 43-1-80	Information pertaining to a hearing conducted by the Office of Administrative Hearings
37	Social Services	114-410	1976 Code Sections 43-1-80 and 43-1-150	Client information except names and amount of assistance
38	Social Services	114-503	1976 Code Sections 43-1-80 and 20-7-2980, et seq.	Children's records, photographs, and other information obtained by a child care center, unless parent permission is given
39	Social Services	114-513	1976 Code Sections 43-1-80 and 20-7-2980, et seq.	Children's records, photographs, and other information obtained by a group child care home, unless parent permission is given
40	Social Services	114-1020	1976 Code Sections 43-1-80	Information about applicants or recipients of financial or medical assistance
41	Social Services	114-4520	1976 Code Sections 20-7-670 and 43-1-80, as amended	Records pertaining to a referral, investigation, or action against an institution by DSS
42	Office of the Governor-- Division for Review of the Foster Care of Children	24-1	1976 Code Sections 43-13-10 and 43-13-60; Section 2, Part III General Appropriations Act, 1985	Identifying information held by local boards and the Board of Directors

	Department/ Area	S.C. Code of Regulations	Statutory Authority (If Listed)	Summary of What Is Exempted
43	State Budget and Control Board	19-718.05	1976 Code Sections 8-11- 41, 8-11-230, 8- 11-240 and 8- 11-680	Records of employee appeals to the State Human Resources Director
44	State Budget and Control Board	19-718.06	1976 Code Sections 8-11- 41, 8-11-230, 8- 11-240 and 8- 11-680	Mediation conference records
45	State Budget and Control Board	19-718.08	1976 Code Sections 8-11- 41, 8-11-230, 8- 11-240 and 8- 11-680	All records submitted to the mediator- arbitrator
46	State Budget and Control Board	19-775.29	1976 Code Sections 8-17-10 through 8-17-60	Officials record and memoranda of cases submitted to the State Employee Grievance Committee
47	State Budget and Control Board	19-903	1976 Code Section 9-1-290	Records of members maintained by the South Carolina Retirement System
48	State Budget and Control Board	19-933	1976 Code Section 9-11- 30(9)	Records of members maintained by the Police Officers' Retirement System
49	State Budget and Control Board	19-963	1976 Code Section 9-9- 308(8)	Records of members maintained by the South Carolina Retirement System for Members of General Assembly
50	State Budget and Control Board	19-983	1976 Code Section 9-8- 30(8)	Records of members maintained by the Retirement System for Judges and Solicitors
51	State Budget and Control Board	19-1120	1976 Code Section 44-6- 170	Patient names, addresses, identifying information, and social security numbers (received by the Office of Research and Statistics for the Data Oversight Council)
52	State Budget and Control Board	19-1205	S.C. Code Section 59-4- 30(B)	Information identifying contributors or beneficiaries of tuition prepayment contracts, their account activities (can be disclosed with consent, judicial order, or for official purposes)

	Department/ Area	S.C. Code of Regulations	Statutory Authority (If Listed)	Summary of What Is Exempted
53	State Ethics Commission	52-603	1976 Code Sections 2-7-10 et seq. and 8-13- 100 et seq.	Prior written approval for a public official to accept gifts or services from a lobbyist on the grounds that to disclose the information would jeopardize economic development (made public when approving official determines that public disclosure is appropriate and notifies the Commission in writing that public disclosure is appropriate)
54	State Ethics Commission	52-705	1976 Code Sections 2-7-10 et seq. and 8-13- 100 et seq.	Records of ethics complaints found to be groundless

Analysis

The most common exemptions to the South Carolina FOIA deal with privacy. The South Carolina code is very thorough in protecting medical information of citizens. Out of 225 total exemptions found (171 from the Code of Laws, 54 from the Code of Regulations), 42 dealt with health or medical records. Most of the health-related laws deal with blocking disclosure of disabilities (patients who are mentally retarded or have birth defects, for example) or diseases (people who have tested positive for HIV and other sexually transmitted diseases to veterans affected by Agent Orange). The cause for all these exemptions is to protect people's right to privacy and prevent them from being exposed to the judgment of others for having certain diseases or conditions.

Information regarding children and those with mental disabilities is also guarded stringently. This includes not only medical and many social services records, but family court records pertaining to juveniles as well. About 20 such laws and regulations dealing with children and 8 dealing with mentally retarded people exist in the code. In this way, the law again protects the privacy of individuals who may not be able to protect themselves.

Protection of privacy also extends to workers in most professions (even from fields as obscure as fire sprinkler contracting), who are protected from disclosure of investigations into their possible violations in their fields. Twenty-three such exemptions (and several more that have similar goals) exist in the Professions and Occupations section of the Code of Laws. The goal of these laws is to protect workers from seeing damaging accusations (true or untrue) being made public and possibly ruining their reputations. The final order of the board that governs their field is not confidential, however. This allows the rest of the public to know if an accountant, for example, has had his license revoked.

This exemption does raise some issues, however. Investigations into the work of doctors, for example, are only made public after the disciplinary board has made its decision. If the public knew this information during the investigation, however, more people could come forward if they had had problems with that doctor. Some people would argue that their right to know trumps the doctor's right to privacy. A similar provision even exists to exempt information about explosions of the equipment or gas system a person has serviced, which would be important information for a journalist writing a story on the event or a victim of the explosion.

Several laws also protect the privacy people who wish to file complaints against a person or office or who will give information to law enforcement regarding crime. Nondisclosure of their identities is important in this case because it allows them to speak without fear of retaliation. Witness statements can be important in convicting criminals and complaints, for example, against medical professionals who have harmed or misdiagnosed someone can help stop an unqualified person from practicing. However, being able to make statements without fear of their identities being revealed could allow some dishonest people to lie in these circumstances.

The areas of government that had the largest number of exemptions in the code of laws were Professions and Occupations (43), Health (23) and Insurance (22). In the code of regulations, Health and Environmental Control exemptions were most popular, making up 19 out of the 54 exemptions. The State Budget and Control Board came in second with ten exemptions, and Social Services and Agriculture both had six. Social Services, Health, and Professions and Occupations all dealt mostly with privacy issues and thus were the most popular. Because there are so many exemptions in these areas, they are likely to pose hurdles to people looking for information under the FOIA.

The most exemptions to the FOIA were enacted in the 1990s and after 2000, but there was no surge after Sept. 11, 2001. Twenty-four exemptions were from 1962, predating the 1974 enactment of the FOIA. Sixteen exemptions were made in the 1970s, 33 in the 1980s, 56 in the 1990s, and 42 so far this decade. The dates of enactment for some exemptions are relevant to news events going on at the time. For example, the disclosure of the coordinates of underwater archaeological historical properties became exempt in 1996, a year after Clive Cussler and a team from the National Underwater and Marine Agency located the sunken remains of the H.L. Hunley.

There are two exemptions with dates of enactment or important amendments that are relevant in relation to homeland security concerns. One law restricted the disclosure of water use information, which could be valuable to terrorists looking to poison the water supply if made public. Another exempted from disclosure the identities of people with general or restricted fertilizer permits. Because fertilizer can be used in some kinds of homemade explosives, knowing who has access to large amounts of it would be valuable information for someone looking to make bombs.

Though many exemptions protect people's privacy, some have potential to be misused to hide information that the public should know. For example, exemptions that allow nondisclosure of gifts given to state employees by lobbyists if the disclosure would harm economic development could allow state employees to receive lavish gifts (essentially, bribes) from lobbyists without the public knowing. This poses a problem because what would harm economic development is open to interpretation and the information about the gifts doesn't come out until the official who approved the confidentiality deems it appropriate. The public would not find out if the official didn't deem it appropriate to disclose the information or did so years later. The exemption to allow law enforcement officials to exempt information relating to money used to buy information or evidence in an investigation raises similar questions. The public may want to know if its tax money is being used to pay large sums to criminals in exchange for information on other criminals.

Other exemptions raise questions over whether the information exempted should be exempt at all. For example, clients of an HMO may want information on malpractice claims filed against the HMO, but are not currently allowed to access that information. Journalists may want to use this information (or data on medical malpractice suits collected the South Carolina Medical Malpractice Liability Joint Underwriting Association) but are not allowed to see it either. Reports on accidents made by the

people in the accidents could shed new light on where the accidents most often occur, but these reports are exempt from disclosure.

Though some exemptions found in this project dealt with homeland security concerns, most dealt with personal privacy issues. Medical records, insurance matters, and worker investigation and discipline are all protected under these exemptions made outside the South Carolina FOIA. However, some exemptions hold the potential for abuse of power.

Conclusion

The South Carolina FOIA allows the public access to a wide range of information affecting people's lives. In the years since the Act was added to South Carolina law, courts have consistently ruled in favor of the free flow of information. Exemptions tend to protect personal privacy rather than hide controversial government actions, however, misuse of the exemptions to cover up information of public interest is certainly possible. It is important that a comprehensive list of these exemptions be created and maintained so that those seeking information know what is and is not exempt from disclosure. If exemptions are ever made that compromise the public's right to information that should be unrestricted, having all these exemptions in one place should make it easier to identify and rectify the situation.

This project lays the foundation for a database of exemptions to the FOIA found outside the FOIA itself. Its purpose is to serve as a reference to journalists and citizens alike and will help facilitate the free flow of information. If the database is to be used as such, it is important that it is added to as new laws come into effect. In that way, it will continue to be effective as a reference.

This compilation of exemptions can not truly be called complete because it is unlikely that all of the exemptions in the state code to the FOIA have been found. Though this project used a variety of terms while searching databases for exemptions, some with unusual wording may have slipped by. More research using more obscure search terms could help to find more of these exemptions, as could comprehensive interviews that would include the disclosure officers at every state agency.

Further research needs to be done not only to find and list more exemptions, but to explain why things became exempt when they did. By comparing the dates of enactment to news events that occurred during those times, the historical reasons behind exemptions could be established. Analysis of patterns formed by that comparison could show (and possibly predict) trends in popular and state government attitudes toward the FOIA.

More research also needs to be done on the number of times the each exemption found by this project has been used to reject records requests. By doing so, the most popular exemptions can be found and studied to see if they are being used fairly. The type of information exempted should also be studied to make sure that information that should be revealed is not hidden from the public view. This research could be integrated into a study of the effectiveness of the FOIA in South Carolina.

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