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## Coates' Canons Blog: Citizen Participation Information as Public Record

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Article: <https://canons.sog.unc.edu/citizen-participation-information-as-public-record/>

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UPDATE August 2013: In 2011, a new exception was enacted to limit access to local government email subscriber lists. Click [here](#) for a summary of this exception.

Local governments work hard to engage and inform their citizens. Technology now provides an increasing number of ways to provide information to and receive information from citizens. From plain old Web pages and email, to Twitter and Facebook, citizens who are willing to log on, sign up, tune in, upload, download, link in, or just visit, can do business with, learn about, and express their opinions about their local governments. But here's the rub: citizens who communicate electronically with local governments may be giving up more than just their time and effort in the process. In many cases, citizen information that is provided to or obtained by a local government is a **public record**. And under the public record laws that means anyone may have **access to or copies** of that information and the local government is not allowed to inquire about or limit what a requester does with the information. (See **G.S. 132-6(b)**.) This post discusses what types of citizen information local governments have, and how much of it may be subject to public inspection and access.

What types of citizen information do local governments have?

Citizens interact with local governments in lots of different ways. Citizens may be customers, volunteers, participants in activities or meetings, subjects of investigation, regulation, prosecution or enforcement, or simply observers from a distance. Local governments may have street addresses, email addresses, phone numbers, account information, and even social security numbers and other personal information about its citizens. In addition, local governments may acquire the same information more than once from the same individual for different purposes. The information may be electronic, in a paper record, or even on an audio or video recording.

What information is public?

Under the North Carolina **public records statute**, records made or received in the transaction of public business are subject to public access. Unless a statute creates an exemption from this general right of access, local governments are required to allow inspection and to provide copies of records upon request. There are too many exceptions to list here, but several examples illustrate some important points about how the statutes and the exemptions work.

First, in some cases, exceptions to public access create a prohibition on the release of the record or information. For example, **state law** prohibits the release of social security numbers and other types of "identifying information," such as drivers' license and bank account numbers. **Another statute** prohibits the release of any account number used for electronic payment. Local governments are also prohibited from disclosing individual information (name, address, telephone numbers, or email addresses) in a **public 911 database**, and from disclosing records that identify a person as having requested specific materials, information, or services **from libraries**.

Other exceptions exclude certain records or information from the right of access, but do not prohibit their release by the public agency. For example, **public enterprise billing information** is exempt from the public records law, but local governments are not prohibited from releasing it. (Specific types of customer billing information that are covered by one of the prohibitive exceptions discussed above may not be released.) This **blog post**, by Kara Millonzi, discusses this exception in more detail.

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Another important point is that information may be protected from disclosure in one context but not in another. For example, state law generally prohibits the disclosure of **city** and **county** tax records containing income or gross receipts information. If that information is contained in a different kind of local government record, however, such as a grant application (which is not a tax record), it is subject to public access.

Is citizen participation information public?

In most cases, when citizens voluntarily engage with their local governments, any information the government obtains incident to that participation is public. This includes email the addresses of those who sign up to receive information about activities or events, and the names and addresses of those who sign up to speak at public meetings or register to participate in other local government activities. In addition to protecting private information, local governments are concerned about the use of large databases of citizen email addresses for commercial purposes, which public agencies can't restrict under current law.

Policy issues in creating exceptions.

The public records law embodies a broad policy of access to information about the activities of public agencies. As stated in the law, "The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people." **G.S. 132-1(b)**. Exceptions to this broad policy reflect several competing policy goals.

Some of the exceptions appear to protect the ability of a local government to effectively conduct its activities. Examples of this include the exceptions for **criminal investigations under G.S. 132-1.4**, and for proposed **economic development projects under G.S. 132-6(d)**. In these cases, the legislature strikes a balance between the interests of transparency and the interests of effective and efficient governmental operations. In most cases, the balance tips toward transparency, as there are relatively few exceptions that fall in this category.

Increasingly, exemptions seem to be focused on protecting private information obtained by the government through its provision of services and regulatory activities. The exceptions discussed above regarding individual identifying and financial information fall in this category. There are also exceptions that protect private information of participants in voluntary programs. For example, **G.S. 132-1.12** protects information regarding minors participating in parks and recreation programs sponsored by local governments. In these cases, the legislature is balancing the interests of transparency against private safety and security interests.

A different policy goal is reflected in the provisions in **G.S. 132-10**, which allows access to GIS system information, but also allows the public agency to require persons who obtain copies to agree in writing that they will not use the copies for resale, trade, or commercial purposes. (The statute exempts media use and multiple listing services operated by real estate trade associations from this category of uses.) Here the legislature promotes transparency, but recognizes and allows the public agency to restrict private sector use of information for profit.

This balancing act is ongoing, as public agencies become aware of new types of records that are created, especially through electronic communications, and weigh the advantage of citizen participation against the risk of public exposure. Local governments may choose to encourage citizen participation by promising that they will not *on their own initiative* disclose or sell citizens' personal information. But it may also be important for local governments to advise citizens that access to their personal information must be provided if requested, unless an exception to the public records law applies.

## Links

- [canons.sog.unc.edu/?p=4957](https://canons.sog.unc.edu/?p=4957)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_132/GS\\_132-1.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-1.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_132/GS\\_132-6.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-6.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_132/GS\\_132-1.10.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-1.10.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_132/GS\\_132-1.2.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-1.2.html)
- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_132/GS\\_132-1.5.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-1.5.html)



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- [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_125/GS\\_125-19.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_125/GS_125-19.html)
  - [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_132/GS\\_132-1.1.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-1.1.html)
  - [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_160A/GS\\_160A-208.1.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-208.1.html)
  - [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_153A/GS\\_153A-148.1.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-148.1.html)
  - [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_132/GS\\_132-1.4.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-1.4.html)
  - [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_132/GS\\_132-1.12.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-1.12.html)
  - [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_132/GS\\_132-10.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-10.html)