

**VOLUME No. 35**

**Opinion No. 84**

**MOTOR VEHICLES—Registration, university system, public records; UNIVERSITY OF MONTANA—Motor vehicle registration, public records. Article II, section 9, Constitution of Montana; sections 53-101, 53-143, 93-1001-2, and 93-1001-4, R.C.M. 1947.**

**HELD: University motor vehicle records relating to vehicle registration, decals, permits, passes and traffic fines are public documents subject to public inspection.**

May 21, 1974

Mr. Lawrence K. Pettit  
Commissioner of Higher Education  
1231 Eleventh Avenue  
Helena, Montana 59601

Dear Mr. Pettit:

You have requested my opinion concerning public access to certain university documents and records. Specifically, you have inquired as to disclosure requirements in regard to motor vehicle records relating to vehicle decals, permits, passes, and traffic fines.

The various units of the Montana university system are public institutions and employees thereof are public employees. Pursuant to statute, section 75-8503.3, Revised Codes of Montana, 1947, the regents may authorize the

president of each unit to adopt rules and regulations for motor vehicle regulation.

Section 93-1001-2, R.C.M. 1947, defines a public writing as:

The written acts or records of the acts of the sovereign authority of official bodies and tribunals, and of public officers, legislative, judicial and executive ...

Thus, written records pertaining to motor vehicle regulation promulgated by university officials appear to be public records subject to public inspection under section 93-1001-4, R.C.M. 1947. Further, the 1972 Montana Constitution provides at Article II, section 9:

No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.

The express purpose of this provision was to constitutionally provide public access to government documents and operations. However, the Constitutional Convention Bill of Rights proposal on the right to know specifically proclaimed:

The Committee intends by this provision that the right to know **not** be absolute. The right of individual privacy is to be fully respected in any **statutory** embellishment of the provision as well as in the court decisions that will interpret it. To the extent that a violation of individual privacy outweighs the public right to know, the right to know does not apply. Montana Constitutional Convention, **Bill of Rights Proposal**, No. VIII, p. 23. (Emphasis supplied)

It is evident from this statement that section 9 was not intended to open all documents to public scrutiny. The drafters recognized the right of the legislature or its delegated agent to promulgate provisions, consistent with section 9, respecting individual privacy.

Article II, section 9, therefore, basically sets forth a balancing test between the public's right to know and the right of individual privacy. However, in the absence of any legislative direction or express provisions promulgated by the university, records concerning motor vehicle regulation are accessible to the public.

The letter that you have enclosed from Mr. George Mitchell, administrative vice president, University of Montana, indicates a question as to disclosure of the following documents:

- 1) Records or documents listing persons issued "D", "M", or "S" vehicle window decals, or special guest passes for on-campus parking.
- 2) Records or documents listing persons from whom the university has withheld the amount of any unpaid parking fine pursuant to section 75-8503.3, R.C.M. 1947.

- 3) Official rules and regulations upon which vehicle permits and passes are issued.

Just as county and state motor vehicle registration records are public records subject to public inspection, so also are motor vehicle records at the units of the Montana university system. (See sections 53-101 and 53-143, R.C.M. 1947.) Likewise, traffic violations and fines in general are matters of public record, section 93-1001-2, *supra*, and records disclosing deductions for unpaid traffic fines at the university are merely a consequence of the violation and, therefore, matters of public record.

The records enumerated in Mr. Mitchell's letter are of a public nature, the disclosure of which would not appear to be an invasion of individual privacy. It should be noted, however, that while the vehicle records listing the names of persons may be open to the public, the public is limited under Article II, section 9, in delving further into the private lives of these individuals. For example, although a list of names of persons with certain physical disabilities who are entitled to hold "D" vehicle decals is a public list, the medical information entitling those persons to that decal is not public information. Clearly, the demand of individual privacy exceeds the merits of public disclosure in such a case.

**THEREFORE, IT IS MY OPINION:**

University motor vehicle records relating to vehicle decals, permits, passes and traffic fines are public documents subject to public inspection.

Very truly yours,  
ROBERT L. WOODAHL  
Attorney General