

MILEAGE REPORTS

MONTHLY MILEAGE REPORTS — USE OF STATE CARS — REPORTS KEPT IN MASTER TRANSPORTATION FILE — NOT IN PERSONNEL FILES — AVAILABILITY TO THE PUBLIC.

August 7, 1975.

*Honorable Frank B. Pesci, Sr.,
House of Delegates.*

You have asked whether monthly mileage records filed in the vehicle office of the local health department are available to the public under the State Public Information Act or whether they are considered a part of personnel files. The question arose in connection with records in the Prince George's County Health Department.

It is our understanding that mileage records for the Prince George's County Health Department are kept in connection with the use by local health department employees of cars which are jointly owned and maintained by the State and Prince George's County. Each month, each employee who has the use of such a car for commuting, as well as official purposes, files an Automobile Mileage Report on which he or she states, for each day, the beginning and ending odometer reading and the total mileage driven, with a breakdown into commuting mileage and official mileage. There is also space on the sheet for setting out the reason for each official use. While the mileage report is filed by the person to whom the car has been assigned, that person may not have been the only person to drive it, as once a car is driven to the office, it is available for use by others. The reports are kept in a master transportation file in the transportation office of the local department, and are used to compile a consolidated monthly report on mileage to the State of Maryland Department of Health and Mental Hygiene and to analyze periodically the use of the cars. The report to the State contains, for each project of the local department, a list showing each car, by license number, the

person using each car, the odometer reading for the beginning and end of each month and the total number of miles driven. These records have been used as a basis for allocation of expenses between the State and Prince George's County. (As of July 1, 1975, however, the filing of mileage records with the State Department of Health and Mental Hygiene is no longer required. The initial outlays will now be made by the county instead of the State and reimbursement will be based on the amount spent instead of on mileage.)

Article 76A requires that public records, with certain exceptions, must be open for inspection. Public records are defined in Section 1 (a) as follows:

"The term 'public records' when not otherwise specified shall include any paper, correspondence, form, book, photograph, photostat, film, microfilm, sound recording, map drawing, or other document, regardless of physical form or characteristics, and including all copies thereof, that have been made by the State and any counties, municipalities and political subdivisions thereof and by any agencies of the State, counties, municipalities, and political subdivisions thereof, or received by them in connection with the transaction of public business, except those privileged or confidential by law, The term 'public records' also includes the salaries of all State employees, both in the classified and non-classified service, and all county and municipal employees, whether in a classified or nonclassified service."

The mileage forms involved here, as forms which have been received by an agency of Prince George's County in connection with the transactions of public business, are public records which must be open for inspection unless for some reason they are privileged or confidential by law or are included in the exceptions contained in Article 76A, Section 3.

We are not aware of a state statute or of a federal statute

or regulation which would outlaw inspection of either the mileage record filed with the local health department or the summary record filed with the Department of Health and Mental Hygiene. The only one of the exceptions listed in Section 3 which seems even remotely applicable to these records is the one which you suggested in your opinion request, Section 3(s) (iii). This provides that the custodian shall deny the right of inspection, unless otherwise provided by law, of "Personnel files except that such files shall be available to the duly elected and appointed officials who supervise the work of the person in interest. Applications, performance ratings and scholastic achievement data shall be available only to the person in interest and to the duly elected and appointed officials who supervise his work."

While the mileage forms at issue here contain information about an individual employee's use of a publicly owned car, these forms cannot, in our opinion, be considered records from personnel files so as to make the requirement of disclosure inapplicable. First of all, the forms are not kept in individual personnel files. They are kept only in a master transportation file in the transportation office of the local department. Secondly, the form involved is not the kind of form that would customarily be included in a personnel file. Even if it could be considered appropriate to keep track of an individual employee's use of a public car for personnel purposes, the form involved here would not achieve that since, as has already been pointed out, the car may be used for official business by several persons even though the form is filed by the one person responsible for the car. The records are maintained, not for personnel purposes, but for the purpose of keeping track of, getting reimbursement for, and assuring efficient use of state-county property. Such records are subject to public inspection under Article 76A.

In conclusion, the nature of the mileage forms, the purpose for which they are kept and the place where they are kept make it clear that they are not personnel records, but are vehicle records only. As such, they are public records and, in accordance with Article 76A, Section 2(a) must be open

for inspection "by any person at reasonable times" except that "the official custodian of any public records may make such rules and regulations with respect to the inspection of such records as shall be reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office."

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