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January 9, 1995

F. Carvel Payne, Director
Department of Legislative Reference
Legislative Services Building
90 State Circle
Annapolis, Maryland 21401-1991

Dear Carvel:

You have requested advice concerning a public information request that you have received from a tax publication. Specifically, you have asked whether the law requires that you provide the information on computer discs as requested, or whether you may provide the requested information in hard copy. It is my view that the information may be provided in hard copy.

The Public Information Act defines a "public record" as the original or copy of any documentary material made or received by the State or the subdivisions in the course of transacting public business and "is in any form, including ... a computer record." State Government Article, §10-611(f)(1)(ii)2. Even before the Act was amended to make specific reference to a "computer record", this office concluded that the definition of "public record" without regard to form was broad enough to include a computer tape. 63 Opinions of the Attorney General 659, 666 (1978). Except as otherwise provided by law, the Act requires a custodian to "permit a person or government unit to inspect any public record at any reasonable time." Sec. 10-613. However, a distinction has been drawn between the right of inspection and the right to a copy of a public record.

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In relevant part, §10-620(a)(1) provides that "[e]xcept as otherwise provided in this subsection, an applicant who is authorized to inspect a public record may have: (i) a copy, printout, or photograph of the public record." A similar provision in the original 1970 act was interpreted by this office in an opinion issued in 1971. That opinion concluded that a request for a copy of a departmental data processing tape itself or a printout of the information on the tape. 56 Opinions of the Attorney General 461, 462-463 (1971). In this regard it was said, "The statute guarantees any person the right to public information and to obtain authentic copies thereof, but it does not guarantee the right to have the information provided in any specific form." Id. at 463. The Federal Freedom of Information Act has been similarly interpreted to mean that the requester's right is to particular information, not a particular form. Dismukes v. Department of Interior, 603 F.Supp. 760, 762-763 (D.D.C. 1984). Interpretations of the Federal Act are regarded as authoritative in interpreting the Maryland Act. 63 Opinions of the Attorney General 355, 362 (1978).

Furthermore, the Public Information Act contains no requirement that all requestors be treated the same. Thus, it is my view that you could provide the requested information on tapes or discs to some requestors while providing hard copy to others. For example, you could decide to provide tapes to the large nationwide publishers such as Michie and West while giving hard copy to smaller concerns.

I hope that this is responsive to your inquiry.

Sincerely,



Kathryn M. Rowe
Assistant Attorney General

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