

Opinion No. 66-131

December 6, 1966

BY: OPINION OF BOSTON E. WITT, Attorney General Paul J. Lacy, Assistant Attorney General

TO: Mr. Richard H. Folmar, Assistant Director, New Mexico Legislative Council, Room 201 State Capitol, Santa Fe, New Mexico

QUESTION

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Are payroll records pertaining to employees of a municipally owned and operated hospital "public records" and, therefore, subject to public inspection under the provisions of Sections 71-5-1 and 71-5-2, N.M.S.A., 1953 Compilation?

CONCLUSION

Yes.

OPINION

{*173} ANALYSIS

Sections 71-5-1 and 71-5-2, supra, specifically permit inspection of public records in the following terms:

71-5-1. Right to inspect public records -- Exceptions. -- Every citizen of this state has a right to {*174} inspect any public records of this state except records pertaining to physical or mental examinations and medical treatment of persons confined to any institutions and except as otherwise provided by law.

71-5-2. Officers to provide opportunity and facilities for inspection. -- All officers having the custody of any state, county, school, city or town records in this state shall furnish proper and reasonable opportunities for the inspection and examination of all records requested of their respective offices and reasonable facilities for making memoranda abstracts therefrom, during the usual business hours, to all persons having occasion to make examination of them for any lawful purpose.

In the Opinion of the Attorney General No. 61-137, dated December 27, 1961, a copy of which is enclosed herein, this office had occasion to construe the term "public records" as it is used in these sections. We concluded there that the term "public records" is intended to include all papers or memoranda in the possession of public officers **which are required by law to be kept by them**. However, that opinion pointed out that the

right of access and inspection is not unqualified or unrestricted and is subject to reasonable regulation and policy prescribing place of examination and time and manner of inspection. The opinion also pointed out that the law will afford relief ". . . to protect all persons from having matters which they may properly prefer to keep private made public against their will. The right includes protection against mortifying notoriety unless some legal justification for its infliction exists."

It is common knowledge that payroll records must be kept at least to satisfy the tax requirements of state and Federal law. Therefore, payroll records are official "public records". Since it cannot be perceived how revelation of payroll records will subject the employees to "mortifying notoriety", these records must be made available to the public inspection "for any lawful purpose" as specified in the above statutes.