

State Court System Keeps Staff Salaries Secret from the Public

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By Rick Brundrett - The Nerve

File: 3.72 The Judicial Department – the third branch of state government – is refusing to publicly reveal salaries of its own employees, contending it isn't legally required to do so.

The Nerve on Oct. 18 submitted a request to the department under the state Freedom of Information Act (FOIA) asking for the name, title and salary of every department employee making at least \$50,000 annually. The [law](#) says that the exact compensation of a public employee receiving \$50,000 or more a year is not exempt from disclosure to the public.

The website of the S.C. Department of Administration – part of the state government's executive branch – contains a [salary database](#) of state employees earning \$50,000-plus yearly, though the Judicial Department is among 17 state entities that don't have to report salary information for the database.

Given that situation, The Nerve submitted an FOIA request to the Judicial Department for its staff salary information.

On Oct. 23, Ginny Jones, the department's public information director, denied the request in the following email response:

"Article 1, Section 9 of the South Carolina Constitution provides that the South Carolina courts shall be public. The Supreme Court of South Carolina has interpreted this provision to mean that case-related records and trials are public.

"However, the Supreme Court has never held that the Judicial Branch's internal records may be released to the public. In fact, the longstanding practice has been that internal records will not be made available to the public. In light of the foregoing, I will not be able to provide the information that you have requested."

In a written reply on Nov. 2, The Nerve objected to the denial, contending that the Judicial Department is a taxpayer-funded state agency, and that the salaries of department employees are public records under the FOIA. The department provided no follow-up response.

In a written statement provided today to The Nerve, Taylor Smith, an attorney for the South Carolina Press Association, challenged the department's denial.

"No long-standing policy or rule of any branch of S.C. government can forgive the branch from lawful obligations under the state constitution or its code of laws," Smith said. "The law is clear that the state judicial department is a public body for purposes of the South Carolina Freedom of Information Act."

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The Nerve, through its parent organization, the South Carolina Policy Council, is an associate member of the press association.

Under the state constitution, the administrative head of the Judicial Department is S.C. Supreme Court Chief Justice Donald Beatty, who is elected by the state Legislature. Lawmakers also elect other Supreme Court and Court of Appeals members, as well as administrative law, circuit and family court judges. Senate legislative delegations largely control the selection of county magistrates, as The Nerve has previously [revealed](#).

In addition, a legislatively controlled committee, known as the Judicial Merit Selection Commission and chaired by Sen. Luke Rankin, R-Horry, an attorney who heads the Senate Judiciary Committee, nominates judicial candidates for election in the Legislature. Screening hearings for the next round of judicial elections began this week; The Nerve previously has reported on the [secrecy](#) of those proceedings.

South Carolina and Virginia are the only states where their legislatures play primary roles in electing judges.

Ironically, the S.C. Judicial Department previously has confirmed judges' salaries to The Nerve without an FOIA request. In fact, much of that information can be gleaned from the annual state budget.

In 2018, The Nerve [revealed](#) that Beatty was pushing a 33% pay hike for himself and other judges statewide – which lawmakers later approved – with new base salaries ranging from \$183,238 for family court judges to \$198,095 for Supreme Court associate justices.

Beatty is the state's top-paid judge at \$208,000, according to the state budget.

There are 123 Supreme Court, Court of Appeals, circuit and family court judges in the state. The number of other Judicial Department employees isn't listed on the agency's or Department of Administration's websites, though under the current state budget, the Judicial Department is authorized to fund 517 employees who are not judges.

That includes employees in the Office of Disciplinary Counsel and related judicial- and lawyer-conduct commissions, support positions for judges, and other workers in court administration, finance and personnel, and information technology.

Based on 640 total authorized positions in the state budget, the Judicial Department would be larger than more than 70 other state agencies and divisions listed on the Department of

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Administration's website
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In his written budget request for this fiscal year, which started July 1, Beatty asked for state general funds to cover 63 support staff and court reporter/monitor positions, noting those employees currently are paid with court fines and fees, which are considered "other" funds.

The department's total budget, which includes state, federal and "other" funds, for last fiscal year was \$102,608,873. Its base budget is the same for this fiscal year, as approved by lawmakers in response to the COVID-19 outbreak in the state.

In exempting the department and 16 other state entities – including the House and Senate chambers, Santee Cooper and the Ports Authority – from the state salary database, the Department of Administration on its website notes only, "Certain agencies are exempt from oversight by the Human Resources Division and their information is not included."

Department of Administration spokeswoman Kelly Coakley in a written response Thursday to The Nerve cited part of a state law that exempts judges and other judicial employees from certain employment provisions for state agencies, though that section doesn't specifically mention the state salary database.

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