



# MISSISSIPPI ETHICS COMMISSION

Post Office Box 22746  
Jackson, MS 39225  
TELEPHONE (601) 359-1285  
EMAIL [info@ethics.state.ms.us](mailto:info@ethics.state.ms.us)

Case No.

R-\_\_\_\_\_

## **PUBLIC RECORDS COMPLAINT**

### **PLEASE READ THE FOLLOWING INSTRUCTIONS BEFORE COMPLETING THIS FORM:**

You may only file this complaint if you have already requested public records from a public body, and the appropriate period of time allowed by law for a response has passed (at least 7 working days). You must attach the written denial of your records request, if any, to this form, as well as any other correspondence involving your records request. Pursuant to Section 25-61-13, Miss. Code of 1972, the Ethics Commission must forward a copy of this complaint to the head of the public body involved, and the public body may file a response. **After completing, signing and dating the form, please email it or mail it to the address listed above. Please note, we cannot accept handwritten forms.**

#### **PERSON MAKING COMPLAINT (Complainant):**

Name: \_\_\_\_\_  
(Last) (First) (Middle)

Mailing Address \_\_\_\_\_  
(Street) (City) (State) (Zip Code)

Telephone No.: \_\_\_\_\_ Email Address: \_\_\_\_\_

#### **PUBLIC BODY AGAINST WHICH COMPLAINT IS MADE (Respondent):**

Name of Public Body: \_\_\_\_\_

Name of Head of Public Body: \_\_\_\_\_

Title or Position: \_\_\_\_\_

Mailing Address \_\_\_\_\_  
(Street) (City) (State) (Zip Code)

Telephone No.: \_\_\_\_\_ Email Address: \_\_\_\_\_

Name of Individual from whom  
Records Were Requested: \_\_\_\_\_

Title or Position: \_\_\_\_\_

Mailing Address \_\_\_\_\_  
(Street) (City) (State) (Zip Code)

Telephone No.: \_\_\_\_\_ Email Address: \_\_\_\_\_

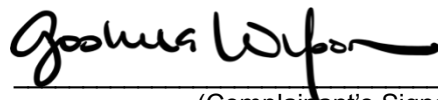
#### **ALLEGATIONS AND STATEMENT OF FACTS:**

In your own words, please describe as specifically as possible the documents you requested and give any reasons why you believe the records should have been produced to you.

I have read and understood everything in this complaint. By printing and physically signing **or** by typing my electronic signature, I certify that the statements, matters and allegations set forth in this complaint are true and correct to the best of my knowledge, information and belief and are made of my own free will.

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(Date)

A handwritten signature in black ink, appearing to read "Joshua Wilson", written over a horizontal line.

(Complainant's Signature)

ETHICS COMPLAINT 2

This complaint concerns the Mississippi Department of Transportation's refusal to provide public records related to bridge inspections for the Davis Bayou Bridge on Hanshaw Road in Ocean Springs, Mississippi. The denial of these records violates the Mississippi Public Records Act (Miss. Code Ann. § 25-61-1 et seq.), which guarantees the public's right to access government records unless specifically exempted by law.

### **Timeline of Events**

- April 10, 2025: A student worker at the Roy Howard Community Journalism Center, Evan Baronich, submitted a public records request to MDOT seeking inspection records for the Davis Bayou Bridge from January 1, 2019, to the present. The request included:
  - Routine or special inspection reports,
  - Structural evaluations or engineering assessments,
  - Maintenance reviews or safety audits,
  - Reports identifying defects, issues, or recommended repairs,
  - The names of inspecting agencies or contractors.
- April 21, 2025: MDOT denied the request, citing 23 U.S.C. § 407 (federal law) and Miss. Code Ann. § 25-61-11 (state law) as exemptions.
- April 21, 2025 (with an additional letter on April 22, 2025): The RHCJC appealed the denial, requesting clarification on the scope of the exemption and asking for the release of any non-exempt records.
- April 23, 2025: The Mississippi Attorney General's Office, representing MDOT, responded to the appeal, reaffirming the denial and asserting that 23 U.S.C. § 407 provides a federal privilege that exempts these records from disclosure.

### **Grounds for the Complaint**

While 23 U.S.C. § 407 provides protection for data compiled for the purpose of federally funded highway safety enhancement projects, we contend that routine bridge inspection reports — such as those required under the National Bridge Inspection Standards — are compliance-driven records, not safety evaluations collected specifically for federal safety improvement programs.

As such, these routine inspections do not necessarily fall under the scope of § 407, and the blanket application of this exemption overreaches its intended purpose. Other states have determined that routine inspection records are public documents not covered by § 407, and we believe MDOT's broad application of this federal statute violates the spirit and intent of the Mississippi Public Records Act.

Furthermore, even if portions of the requested documents are exempt, the Mississippi Public Records Act requires partial disclosure of non-exempt factual information, such as inspection dates, contractor names, or general findings, which MDOT has refused to release.

### **Request for Relief**

We respectfully request that the Mississippi Ethics Commission:

- Investigate whether MDOT's denial improperly applies § 407 to routine bridge inspections that may not be covered by the federal privilege.
- Require MDOT to disclose any non-exempt portions of the requested records, such as inspection schedules, responsible agencies/contractors, and general maintenance findings.
- Clarify the scope and limits of applying federal exemptions within the Mississippi Public Records Act to ensure transparency in matters of public infrastructure safety.

**Subject:** Public Records Request – Hanshaw Bridge Inspection Records (2019–2024)

**Date:** Wednesday, April 9, 2025 at 4:16:22 PM Central Daylight Time

**From:** Evan Baronich

**To:** mdotpro@mdot.ms.gov

**CC:** Joshua Wilson

To Whom It May Concern,

Under the Mississippi Public Records Act of 1983, I am requesting access to all **inspection records for the Hanshaw Bridge** from **January 1, 2019, through the present**.

This request includes:

- Routine or special inspection reports
- Structural evaluations or engineering assessments
- Maintenance reviews or safety audits
- Any reports identifying defects, issues, or recommended repairs

Please include the name of the inspecting agency or contractor where applicable. If any part of this request is denied, please cite the applicable exemption.

I prefer to receive the documents in **electronic format** if possible. Kindly inform me of any costs before processing.

Thank you for your assistance.

Sincerely,

**Evan Baronich**

**Strategic Communication Lead**

**Roy Howard Community Journalism Center**

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**Subject:** FW: Public Records Request - Response  
**Date:** Monday, April 21, 2025 at 3:54:34 PM Central Daylight Time  
**From:** Evan Baronich  
**To:** Joshua Wilson  
**Attachments:** image001.png, Evan Baronich PRR Response Ltr.4.21.2025.pdf, 30-116 Signed Closure Letter - City of Ocean Springs.pdf

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**From:** MDOT Public Records Officer <[mdotpro@mdot.ms.gov](mailto:mdotpro@mdot.ms.gov)>  
**Date:** Monday, April 21, 2025 at 8:27 AM  
**To:** Evan Baronich <[Evan.Baronich@usm.edu](mailto:Evan.Baronich@usm.edu)>  
**Subject:** Public Records Request - Response

**CAUTION:** This email originated from outside of USM. Please BE CAUTIOUS before clicking links or opening attachments unless you recognize and/or trust the sender.

Mr. Baronich,

The Mississippi Department of Transportation is in receipt of your request for records dated April 10, 2025.

Please see the attached letter and document responsive to your request.

If you have any questions or need any additional information or documentation, please do not hesitate to contact me.

Thank you,

Mississippi Department of Transportation  
Post Office Box 1850  
Jackson, MS 39215-1850  
601-359-7600



Harry Lee James, P.E.  
State Aid Engineer  
P.O. Box 1850  
Jackson, Mississippi 39215  
Phone (601) 359-7150



**OSARC**  
OFFICE OF  
STATE AID ROAD CONSTRUCTION

412 E. Woodrow Wilson Ave.  
Jackson, Mississippi 39216  
Fax (601) 359-7141  
[www.osarc.ms.gov](http://www.osarc.ms.gov)  
[mail@osarc.ms.gov](mailto:mail@osarc.ms.gov)

April 21, 2025

**Via Email: [evan.baronich@usm.edu](mailto:evan.baronich@usm.edu)**

Evan Baronich  
Roy Howard Community Journalism Center  
118 College Dr Box 5103  
Hattiesburg, MS 39406

**Re: *Public Records Request  
Hanshaw Road Bridge***

Dear Mr. Baronich:

The Mississippi Department of Transportation (MDOT) is in receipt of your request for documents dated April 10, 2025, in which you seek public records of the above-referenced matter. Specifically, you have requested "access to all inspection records for the Hanshaw Bridge from January 1, 2019, through the present. This request includes: Routine or special inspection reports, Structural evaluations or engineering assessments, Maintenance reviews or safety audits, and any reports identifying defects, issues, or recommended repairs. Please include the name of the inspecting agency or contractor where applicable. If any part of this request is denied, please cite the applicable exemption".

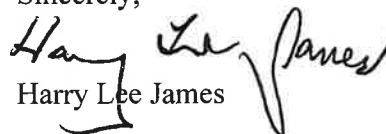
With respect to the documents you have requested, MDOT has identified approximately two (2) pages of documents, which could be located after diligent search, and which are not exempt from disclosure under applicable law.

In addition, MDOT has identified approximately three hundred sixty-four (364) pages of documents identified as Bridge Survey Reports from December 2019, through December 2024, and approximately four (4) pages of documents identified as a Report of Critical Findings. These documents are privileged and exempt from disclosure under 23 U.S.C. Section 407 and Mississippi Code Section 25-61-11. For this reason, your request with respect to these documents is denied.

Normally, under the Mississippi Public Records Act, the actual cost associated with producing documents is payable to MDOT in advance of the receipt of documents by the requesting party. However, because this is limited information that is being provided electronically, this information is being provided to you without charge. Please note that any future requests will be subject to the standard MDOT fees for the production of public records.

If you believe there are other records responsive to your request not contained herein, please do not hesitate to contact me.

Sincerely,

  
Harry Lee James

HLJ/  
Enclosure

Harry Lee James, P.E.  
State Aid Engineer  
P.O. Box 1850  
Jackson, Mississippi 39215  
Phone (601) 359-7150



412 E. Woodrow Wilson Ave.  
Jackson, Mississippi 39216  
Fax (601) 359-7141  
[www.osarc.ms.gov](http://www.osarc.ms.gov)  
[mail@osarc.ms.gov](mailto:mail@osarc.ms.gov)

February 27, 2025

Honorable Kenneth Holloway  
Mayor, City of Ocean Springs  
P.O. Box 1800  
Ocean Springs, MS 39564

Dear Mayor Holloway:

Subject: Bridge Closure  
Structure Number: SA3000000000116  
Location: Hanshaw Road over Davis Bayou  
Section 26, T7S, R8W B- Jackson County

This letter is to inform you that the above referenced bridge site should be immediately closed within 24 hours of the date of this letter by appropriate emergency/temporary means in accordance with the Critical Finding Procedure Part 4, Page 15-4 of the *Mississippi Local System Bridge Inspection Manual*. Once this bridge is closed using these emergency/temporary means, we request that digital photographs of the closure be forwarded by email (or mail) to the County Engineer and State Aid. This information is required in the bridge files and will document the temporary closure.

After the initial emergency/temporary closure is in place, repairs may be made while the bridge is temporarily closed. The bridge must remain closed until a re-inspection is made of the repairs. Permanent closures are required to be put in place within 30 days of the date of this letter if repairs are not made. Please notify us by March 13, 2025 of the city's intentions on repairing and reopening this bridge or if it will remain closed.



City of Ocean Springs  
Honorable Kenneth Holloway  
February 27, 2025  
Page 2

The Critical Finding Report is attached and may assist you in your repairs. These repairs are the City's responsibility. It may be prudent to perform additional delayed maintenance or other repairs. A re-inspection is required prior to opening the bridge and a request for reinspection shall be made to [bridge@osarc.ms.gov](mailto:bridge@osarc.ms.gov). Until such time that this bridge is repaired or replaced, it shall remain closed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Harry Lee James".

Harry Lee James, P. E.  
State Aid Engineer

HLJ/jaa  
Attachments

pc: Robert F. Diamond, County Engineer (w/ attachments)  
Brown, Mitchell, & Alexander and Overstreet, City Engineer (w/ attachments)  
Board of Supervisors (w/o attachments)  
Jonathan Dixon, P.E., District Engineer (w/o attachments)  
Austin Banks, P.E., FHWA Division Bridge Engineer (w/o attachments)  
File

**Subject:** Public Records Request Appeal (Hanshaw Bridge Inspection Records)  
**Date:** Monday, April 21, 2025 at 4:20:03 PM Central Daylight Time  
**From:** Joshua Wilson  
**To:** mail@osarc.ms.gov, mdotpro@mdot.ms.gov  
**CC:** Whitney Argenbright, Nichole Cyprian, Evan Baronich  
**Attachments:** Evan Baronich PRR Response Ltr.4.21.2025[74].pdf

Dear Mr. James:

Thank you for your response to our recent public records request regarding the Hanshaw Bridge. I understand the Mississippi Department of Transportation has cited 23 U.S.C. § 407 and Mississippi Code § 25-61-11 as grounds for denial.

I am writing to respectfully appeal this decision and seek clarification on the scope of the denial.

23 U.S.C. § 407 applies specifically to data compiled or collected for the purpose of a federally funded highway safety improvement program (such as the Highway Safety Improvement Program, or HSIP), and not to routine inspections or maintenance records conducted as part of the National Bridge Inspection Standards (NBIS) or other state-mandated procedures. Our request specifically sought:

1. Routine or special inspection reports
2. Structural evaluations or engineering assessments
3. Maintenance reviews or safety audits
4. Reports identifying defects, issues, or recommended repairs
5. The name of any inspecting agency or contractor

Unless these records were created specifically for a federally funded safety improvement program, I respectfully assert that they do not fall under the protections of 23 U.S.C. § 407 and should be disclosed under the Mississippi Public Records Act.

If portions of the requested records are exempt, I ask that you:

1. Identify which specific documents fall under the claimed exemptions and explain how they meet the criteria of 23 U.S.C. § 407.
2. Provide any non-exempt records or portions of records, including factual inspection data, contractor names, dates, and general findings.
3. Clarify whether any records exist that were created outside the scope of a federal safety improvement program, particularly those prepared for routine inspection and maintenance purposes.

I am still willing to receive the responsive records in electronic format and to be notified of any reasonable associated costs.

Thank you for your time and attention to this matter. I look forward to your clarification and any responsive records that may be provided under state law.

Sincerely,

**Joshua Wilson, M.B.A.**

Community Liaison

Roy Howard Community Journalism Center

[www.rhcjcnews.com](http://www.rhcjcnews.com)

Adjunct Professor

School of Media & Communication

[www.usm.edu/media-communication](http://www.usm.edu/media-communication)

The University of Southern Mississippi

Office: 601-266-4265

Mobile: 601-757-0489

***“Despite its critics, I believe that journalism is destined to be with us for a long time.” — Roy Howard***

**Subject:** Re: Public Records Request Appeal (Hanshaw Bridge Inspection Records)  
**Date:** Tuesday, April 22, 2025 at 8:21:11 AM Central Daylight Time  
**From:** Joshua Wilson  
**To:** mail@osarc.ms.gov, mdotpro@mdot.ms.gov  
**CC:** Whitney Argenbright, Nichole Cyprian, Evan Baronich

Dear Mr. James:

Following up on my previous correspondence regarding the denial of my public records request for Hanshaw Bridge inspection records, I have further reviewed 23 U.S.C. § 407, which was cited as a basis for withholding the requested documents.

After careful research, I have determined that 23 U.S.C. § 407 pertains specifically to the inadmissibility of certain highway safety data in litigation. Its primary function is to prevent data collected for federally funded highway safety programs from being used as evidence in court proceedings, particularly in civil lawsuits for damages. It does not create a confidentiality exemption applicable to public records requests under the Mississippi Public Records Act.

The Mississippi Public Records Act of 1983 (Miss. Code Ann. § 25-61-1 et seq.) requires that records not specifically exempted by state or federal law be made available for public inspection. Since 23 U.S.C. § 407 does not explicitly declare safety data confidential for public access purposes — but rather restricts its use in legal proceedings — it should not be applied to deny a public records request.

I respectfully request that the Department reconsider its position and provide access to non-exempt records, particularly routine inspection reports, maintenance reviews, and contractor information. If any specific documents or portions of documents fall within a legitimate exemption, I ask for an explanation of the exemption's applicability to those specific materials.

Thank you again for your time and attention to this matter. I look forward to your response.

---

**From:** Joshua Wilson <[Joshua.Wilson@usm.edu](mailto:Joshua.Wilson@usm.edu)>  
**Date:** Monday, April 21, 2025 at 4:20 PM  
**To:** [mail@osarc.ms.gov](mailto:mail@osarc.ms.gov) <[mail@osarc.ms.gov](mailto:mail@osarc.ms.gov)>, [mdotpro@mdot.ms.gov](mailto:mdotpro@mdot.ms.gov) <[mdotpro@mdot.ms.gov](mailto:mdotpro@mdot.ms.gov)>  
**Cc:** Whitney Argenbright <[Whitney.Argenbright@usm.edu](mailto:Whitney.Argenbright@usm.edu)>, Nichole Cyprian <[Nichole.Cyprian@usm.edu](mailto:Nichole.Cyprian@usm.edu)>, Evan Baronich <[Evan.Baronich@usm.edu](mailto:Evan.Baronich@usm.edu)>  
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Sincerely,

**Joshua Wilson, M.B.A.**

Community Liaison

Roy Howard Community Journalism Center

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The University of Southern Mississippi  
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*Lynn Fitch*  
**ATTORNEY GENERAL**

**PAYTON W. ACY**

SPECIAL ASSISTANT ATTORNEY GENERAL

payton.acy@ago.ms.gov

601.359.7600

April 23, 2025

Mr. Joshua Wilson  
Community Liaison  
Roy Howard Community Journalism Center  
118 College Dr. Box 5103  
Hattiesburg, MS 39406

**Via Email: [Joshua.Wilson@usm.edu](mailto:Joshua.Wilson@usm.edu)**

Re: Public Records Request  
Hanshaw Road Bridge

Dear Mr. Wilson:

This office represents the Office of State Aid Road Construction ("OSARC") and the Mississippi Transportation Commission/Mississippi Department of Transportation ("MDOT"). We are in receipt of your April 21, 2025, and April 22, 2025, email correspondence regarding the above-referenced public records request. Specifically, you refer to the denial of your April 10, 2025, request for "access to all inspection records for the Hanshaw Bridge from January 1, 2019, through the present. This request includes: Routine or special inspection reports, structural evaluations or engineering assessments, maintenance reviews or safety audits, reports identifying defects, issues, or recommended repairs, and the name of any inspecting agency or contractor" under 23 U.S.C.A. § 407 and Miss. Code Ann. § 25-61-11. You note that you are "appealing the decision and seeking clarification on the scope of the denial."

23 U.S.C.A. § 407 provides: "Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for the purpose of identifying, evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings, pursuant to sections 130, 144, and 148 of this title or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists, or data."

In addition, under state law, the Mississippi Public Records Act "shall not be construed to conflict with, amend, repeal or supersede any constitutional law, state or federal statutory law, or decision of a court of this state or the United States which at the time this chapter is



Mr. Joshua Wilson  
Community Liaison  
Roy Howard Community Journalism Center  
April 23, 2025  
Page 2

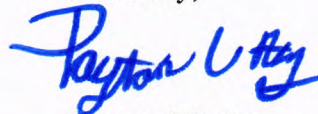
effective or thereafter specifically declares a public record to be confidential **or privileged**, or provides that a public record shall be exempt from the provisions of this chapter.” Miss. Code § 25-61-11 (emphasis added).

The federal privilege at issue was specifically enacted for the purpose of encouraging the necessary information-gathering by the states to improve safety under federal transportation programs. With respect to the statute related to bridge inspections (cited in 23 U.S.C.A. § 407), Congress specifically found that, “...continued improvement to bridge conditions is essential to protect the safety of the traveling public and allow for the efficient movement of people and goods on which the economy of the United States relies; and...the systematic preventative maintenance of bridges, and replacement and rehabilitation of deficient bridges, should be undertaken through an overall asset management approach to transportation investment.” See 23 U.S.C.A. § 144(a)(1)(A-B). Moreover, the purposes accomplished by these inspections are specifically declared by Congress to be “in the vital interest of the United States.” See 23 U.S.C.A. §144(a)(2).

To use a state sunshine law to usurp this federal statutory requirement/privilege by releasing information that is not otherwise subject to discovery would violate the stated intent of the underlying federal law (which is to encourage the collection of safety information as part of a systemic approach to federal safety projects funded by federal transportation dollars). Furthermore, the Mississippi Public Records Act does not allow for different outcomes based on the reason for the request or the occupation of the requesting party; it only addresses whether a record is subject to disclosure or not.

In summary, to provide the clarification you have requested, this information is unquestionably privileged under federal statute; therefore, it is not subject to disclosure under the Mississippi Public Records Act. For this reason (and without waiving any other applicable legal justifications) your public records request was denied. *See, Pierce County Washington v. Guillen, et al.*, 123 S. Ct. 720, 722-23 (upholding the constitutionality of the federal privilege [formerly 23 U.S.C.A. § 409, now 23 U.S.C.A. § 407] in a case where the State of Washington withheld similar materials under its state Public Disclosure Act, and noting the reasonable belief of Congress that this privilege “would result in more diligent collection efforts, more candid discussions of hazardous locations, better informed decision making, and greater safety on the Nation’s roads...”).

Sincerely,



Payton W. Acy

PWA/jch

Cc: Harry Lee James, State Aid Engineer  
Evan Baronich