

Public records, information transmitted by radio signal

Number: INFORMAL

Date: September 24, 1997

Subject:

Public records, information transmitted by radio signal

Chief Fred Fernez
Indian Harbour Beach Police Department
40 Cheyenne Court
Indian Harbour Beach, Florida 32937

RE: 911 CALLS--PUBLIC RECORDS--applicability of confidentiality provisions of Public Records law to radio signals. ss. 119.07(3)(f), and 365.171, Fla. Stat. (1996 Supp.).

Dear Chief Fernez:

You have asked whether a law enforcement agency can lawfully enter into an agreement authorizing the monitoring of the 800MHZ radio system which would allow access to information which is confidential pursuant to sections 119.07(3)(f), and 365.171(15), Florida Statutes (1996 Supplement). Attorney General Butterworth has asked me to respond to your letter.

Section 365.171, Florida Statutes (1996 Supplement), is the "Florida Emergency Telephone Act." [1] The purpose of the act is

"to establish and implement a cohesive statewide emergency telephone number '911' plan which will provide citizens with rapid direct access to public safety agencies by dialing the telephone number '911' with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services." [2]

Section 365.171(15), Florida Statutes (1996 Supplement), provides in part:

"Any record, recording, or information, or portions thereof, obtained by a public agency or a public safety agency for the purpose of providing services in an emergency and which reveals the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency service or reporting an emergency by accessing an emergency telephone number '911' system is confidential and exempt from the provisions of s. 119.07(1), except that such record or information may be disclosed to a public safety agency. The exemption applies only to the name, address, telephone number or personal information about, or information which may identify any person requesting emergency services or reporting an emergency while such information is in the custody of the public agency or public safety agency providing emergency services."

In reviewing this exemption, this office has stated that the portion of the voice recording of a "911" call containing the name, address, telephone number and personal information or

information that might identify a person requesting emergency services must be deleted or excised by the records custodian prior to disclosure of the remainder of the recording.[3]

Section 119.07(3)(f), Florida Statutes (1996 Supplement), provides an exemption from the inspection and copying requirements of the Public Records law for criminal intelligence or investigative information:

"Any criminal intelligence information or criminal investigative information including the photograph, name, address, or other fact or information which reveals the identity of the victim of the crime of sexual battery as defined in chapter 794; the identity of the victim of the crime of lewd, lascivious, or indecent assault upon or in the presence of a child, as defined in chapter 800; or the identity of the victim of the crime of child abuse as defined by chapter 827 and any criminal intelligence information or criminal investigative information or other criminal record, including those portions of court records and court proceedings, which may reveal the identity of a person who is a victim of any sexual offense, including a sexual offense proscribed in chapter 794, chapter 800, or chapter 827, is exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution."

As this office pointed out in Attorney General's Opinion 95-48, nothing in section 365.171, Florida Statutes, precludes the application of other exemptions which may apply to "911" recordings. Nor is there any language in that section which indicates that the Legislature meant to defeat the application of any other exemption or confidentiality provision to information contained in a "911" recording. Thus, the two statutes set out above should be read together to provide a more complete description of that information which must be maintained as confidential by a records custodian.

I am aware of no language in either section 365.171(15), or section 119.07(3)(f), Florida Statutes (1996 Supplement), which would prohibit the Indian Harbour Beach Police Department from entering an agreement with the public to authorize access to a particular radio system for purposes of monitoring police radio transmissions. However, the police department is charged with maintaining the confidentiality of the information specifically set forth in these statutes and any others imposing such a requirement.

I trust these informal comments will be of assistance to you in resolving this matter to your satisfaction. I am enclosing copies of several earlier Attorney General Opinions dealing with "911" telephone calls which may also be helpful.

Sincerely,

Gerry Hammond
Assistant Attorney General

GH/tgk

Enclosures: Attorney General Opinion's 95-48 and 90-43

[1] Section 365.171(1), Fla. Stat. (1996 Supp.).

[2] Section 365.171(2), Fla. Stat. (1996 Supp.).

[3] See Ops. Att'y Gen. Fla. 95-48 (1995), 93-60 (1993), and 90-43 (1990) (while the portion of a voice recording revealing the name, address, and telephone number of a person reporting an emergency or requesting assistance using a "911" number is exempt from disclosure, the public agency is required to release the remainder of the voice recording once the exempt material has been deleted).