

Public Records, opening mail

Number: INFORMAL

Date: April 07, 1997

Subject:
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The Honorable Harold M. Paxton, Jr.
Mayor, Kenneth City
6000 54th Avenue North
Kenneth City, Florida 33709

Dear Mayor Paxton:

Thank you for considering this office as a source for assistance regarding the interpretation of Florida's Public Records Law. Attorney General Butterworth has asked me to respond to your letter.

The Supreme Court of Florida in *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So. 2d 633 (Fla. 1980), has stated that the statutory definition of "public records" contained in section 119.011(1), Florida Statutes, encompasses all materials made or received by a public agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge. While the Public Records Law, Chapter 119, Florida Statutes, is, therefore, applicable to mail which is received by the city in connection with the transaction of its official business, it does not prescribe the procedures for handling such mail. Your questions, therefore, regarding who opens the mail and how such mail should be handled would appear to be an integral part of the actual mechanics and procedures that is more appropriately relegated to local practice and procedure as prescribed by charter, ordinance, or rule.

I am enclosing copies of several sections of the 1996 edition of the Government in the Sunshine Manual which discuss the retention and disposal of public records. As discussed therein, section 119.01(3), Florida Statutes, requires agencies to establish a program for the disposal of public records without sufficient legal, fiscal, administrative or archival value pursuant to retention schedules established by the records and management program of the Division of Library and Information Services of the Department of State. Also enclosed is a copy of the section of the manual stating that in the absence of express legislative authorization, an agency may not refuse to allow public records made or received in the normal course of business to be inspected or copied even though requested to do so by the maker or sender of the document.

You may wish to discuss these issues further with your city attorney. I trust, however, that the enclosed materials and above informal comments may be of some assistance.

Sincerely,

Joslyn Wilson

Assistant Attorney General
Director, Division of Opinions

JW/tgk

Enclosures: Government in the Sunshine Law Manual, pp. 127-128, 141-142