

Public Records, maintaining telephone logs

Number: INFORMAL

Date: January 31, 2003

Subject:
Public Records, maintaining telephone logs

Mr. Robert E. Stone
State Attorney
Nineteenth Judicial Circuit
Post Office Box 2892
Vero Beach, Florida 32960

Attention: Mr. Mark Orr, Assistant State Attorney

RE: PUBLIC RECORDS LAW—no public official may mutilate, destroy, sell, loan or otherwise dispose of any public record without the consent of the Division of Archives, History and Records Management of the Department of State. Section 119.041, F.S.

Dear Mr. Stone:

I am in receipt of a letter submitted on your behalf by your assistant, Mr. Mark Orr, in which substantially the following question was posed:

DO THE PROVISIONS OF THE PUBLIC RECORDS LAW REQUIRE A LAW ENFORCEMENT AGENCY TO KEEP AND MAINTAIN THE RECORDINGS IT MAKES OF INCOMING AND OUTGOING TELEPHONE CALLS?

To begin with, I assume that the recordings to which you refer are authorized to be made by some provision of Ch 934, F.S. See, s. 934.03(1), F.S. *And see* AGO's 079-93 and 080-5, copies of which are enclosed for your convenience. Assuming that these recordings are specifically authorized, they would appear to constitute "public records" as that term is defined in s. 119.011(1), F.S. That definition specifically includes ". . . all . . . tapes . . . made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."

While subsection (3) of s 119.07, F.S., exempts many different police and law enforcement records from the inspection requirements of subsection (1) of that same section, I am not aware of any provision of the Public Records Law or any other law which exempts public records from the command of s 119.041, F.S. That section provides that "[n]o public official may mutilate, destroy, sell, loan or otherwise dispose of any public record without the consent of the Division of Archives, History and Records Management of the Department of State."

I have spoken with a representative of the Division of Archives who told me that they do have procedures for approving the destruction of public records. Inquiries should be directed to Mr.

Richard Masten, Division of Archives, History and Records Management, Department of State,
The Capitol, Tallahassee, Florida 32301.

Trusting that my comments have been of some assistance to you,
I am

Sincerely,

Percy W. Mallison, Jr.
Assistant Attorney General

PWM/wd

Enclosures