

Access to telephone records under reverse 911 program

Number: INFORMAL

Date: October 07, 1999

Ms. Dorothy K. Burk
Chief Assistant City Attorney
100 South Hughey Avenue
Orlando, Florida 32801

RE: TELECOMMUNICATIONS--PUBLIC RECORDS--MUNICIPALITIES--telephone numbers of city residents as public records when reverse 911 program implemented. Ch. 119, Fla. Stat.

Dear Ms. Burk:

Thank you for contacting this office regarding the confidentiality of telephone subscriber information under the provisions of Florida's Public Records Law if this information is in the possession of the City of Orlando. Attorney General Butterworth has asked me to respond to your letter.

In sum, as discussed herein, section 119.07(3)(r), Florida Statutes, makes records supplied by a telecommunications company to a local governmental agency which contain the name, address, and telephone number of subscribers confidential and exempt from the Public Records Law.

According to your letter the City of Orlando is interested in implementing a "reverse 911" system which is designed to allow the city to contact members of the community in large numbers by making one call. The technology for this system is currently available and the system would be used to notify the community of weather emergencies, incidents involving public hazards, or criminal activities in their area. This system is designed to transmit multiple prerecorded messages to designated geographical areas. Thus, you ask whether the Public Records Law would require the City of Orlando to release confidential subscriber information received from telecommunications companies in implementing its "reverse 911" program.

Section 119.07(3)(r), Florida Statutes, makes certain records supplied by a telecommunications company to a governmental agency confidential and exempt from the Public Records Law. The statute provides:

All records supplied by a telecommunications company, as defined by s. 364.02, to a state or local governmental agency which contain the name, address, and telephone number of subscribers are confidential and exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution. Section 364.02(12), Florida Statutes, defines a "[t]elecommunications company" to include:

"[E]very corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a

telecommunications facility."[1]

Thus, information received by the city from a telephone company containing the name, address, and telephone number of subscribers would be protected from public inspection and copying under the provisions of section 119.07(3)(r), Florida Statutes.

You have also asked whether telephone companies are authorized to release such subscriber information to the city. The attorneys for the telecommunications companies must advise you regarding the terms under which they operate by federal, state, and contract law. However, you may also wish to contact Mr. Robert Vandiver, General Counsel for the Public Service Commission to discuss this matter with him. Mr. Vandiver may be contacted as follows:

Mr. Robert Vandiver
General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Telephone: (850) 413-6248

In sum, section 119.07(3)(r), Florida Statutes, makes records supplied by a telecommunications company to a local governmental agency which contain the name, address, and telephone number of subscribers, confidential and exempt from the Public Records Law.

Sincerely,

Gerry Hammond
Assistant Attorney General

GH/tzg

[1] Section 364.02(12), Fla. Stat., also describes those not included within the scope of the term "telecommunications company":

"an entity which provides a telecommunications facility exclusively to a certificated telecommunications company, a commercial mobile radio service provider, a facsimile transmission service, a private computer data network company not offering service to the public for hire, or a cable television company providing cable service as defined in 47 U.S.C. s. 522. However, each commercial mobile radio service provider shall continue to be liable for any taxes imposed pursuant to chapters 203 and 212 and any fees assessed pursuant to s. 364.025."