

2-B-5 | GOVERNOR AND CABINET

The Governor and Cabinet have duties which derive from both the Constitution and the Legislature. Because of separation of powers principles, the legislatively created Public Records Act does not apply to records gathered in the course of carrying out a specific duty or function which has been assigned to the Governor and Cabinet by the Constitution rather than by statute. See AGO 86-50, stating that materials collected by the former Parole and Probation Commission [now known as the Florida Commission on Offender Review] pursuant to direction of the Governor and Cabinet for pardons or other forms of clemency authorized by Art. IV, s. 8(a), Fla. Const., are not subject to Ch. 119, F.S.

The Public Records Act, however, does apply to the Governor and Cabinet when sitting in their capacity as a board created by the Legislature or whose powers are prescribed by the Legislature, such as the Board of Trustees of the Internal Improvement Trust Fund. In such cases, the Governor and Cabinet are not exercising powers derived from the Constitution but are subject to the "dominion and control" of the Legislature.

In addition, Art. I, s. 24, Fla. Const., establishes a constitutional right of access by providing that "every person" shall have a right of access to public records of the executive branch and of "each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution" except as otherwise provided in this section or specifically made confidential in the Constitution.

(Florida Office of the Attorney General // © March 9, 2023)

