

2-C-21 | TELEPHONE RECORDS

Records of telephone calls made from agency telephones are subject to disclosure in the absence of statutory exemption. See *Gillum v. Times Publishing Company*, No. 91-2689-CA (Fla. 6th Cir. Ct. July 10, 1991). See also *Media General Operation, Inc. v. Feeney*, 849 So. 2d 3, 6 (Fla. 1st DCA 2003), rejecting the argument that redaction of telephone numbers for calls made in the course of official business could be justified because disclosure could result in "unreasonable consequences" to the persons called. Cf. s. 119.071(5)(d), F.S. (all records supplied by a telecommunications company, as defined by s. 364.02, F.S., to an agency which contain the name, address, and telephone number of subscribers are confidential and exempt). And see *Inf. to Michelson*, January 27, 1992 (cellular telephone company which provided city with statements reflecting amount of usage of cell phones by city staff rather than listing individual calls, did not appear to be an "agency" for purposes of Ch. 119, F.S., making company's records of individual calls subject to disclosure).

In *Bill of Rights, Inc. v. City of New Smyrna Beach*, No. 2009-20218-CINS (Fla. 7th Cir. Ct. April 8, 2010), available online in the Cases database at the open government site at myfloridalegal.com, the court stated that "as a matter of law, ... billing documents regarding personal calls made and received by city employees on city-owned or city-leased cellular telephones are public records, when those documents are received and maintained in connection with the transaction of official business; and, the 'official business' of a city includes paying for telephone service and obtaining reimbursement from employees for personal calls." Compare *Media General Operation, Inc. v. Feeney*, *supra*, in which the court held that under the circumstances of that case (involving access to records of cellular phone service provided by a political party for legislative employees), records of personal or private calls of the employees fell outside the definition of public records.

Additionally, in responding to a question from a police department regarding the provisions of Ch. 934, F.S., (interception of wire and oral communications), the Attorney General's Office advised that recordings of telephone conversations made by the police department in the usual course of business would be public records subject to the inspection, copying, and retention requirements of Ch. 119, F.S. AGO 12-07. "Any such public records would likewise be subject to the exemption and confidentiality provisions of the



Public Records Law.” Id. And see *Morris Publishing Group, LLC v. State*, 154 So. 3d 528, 532 (Fla. 1st DCA 2015), review denied, 163 So. 3d 512 (Fla. 2015) (“No one disputes” that phone recordings of telephone calls made by the defendant while incarcerated and provided in criminal discovery were public records). Compare *Bent v. State*, 46 So. 3d 1047 (Fla. 4th DCA 2010) (recordings of personal telephone calls between minors in jail awaiting trial and third parties made by sheriff’s office are not public records when contents of the phone calls do not involve criminal activity or a security breach).

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