Public Records -- Twitter

Number: INFORMAL

Date: June 03, 2016

Subject:
Public Records -- Twitter

Ms. Nicolle Shalley, City Attorney
City of Gainesville
Office of the City Attorney
Post Office Box 490, Station 46
Gainesville, Florida 32627

Dear Ms. Shalley:

On behalf of the City of Gainesville and its elected officials, you have requested assistance in determining whether a list or record of accounts which have been blocked from posting to or accessing an elected official's personal Twitter feed is a public record as defined in section 119.011(12), Florida Statutes, and therefore subject to public inspection and copying. Attorney General Bondi has asked me to respond to your letter.

In the absence of a statutory exemption, Florida's Public Records Law provides a right of access that applies to all materials made or received by an agency in connection with the transaction of official business which are used to perpetuate, communicate, or formalize knowledge.[1] However, the question presented in your request involves mixed questions of law and fact that this office cannot resolve.

A determination of whether the list of blocked accounts is a public record requires resolution of the question of whether the "tweets" which resulted in the blocked accounts, were public records. If the "tweets" the public official is sending are public records, then a list of blocked accounts, prepared in connection with those public records "tweets," could well be determined by a court to be a public record.

Several recent public records cases may be helpful to you and to the public official involved in determining whether these records are public records within the scope of Florida's Public Records Law. See, e.g., Butler v. City of Hallandale Beach, 68 So. 3d 278 (Fla. 4th DCA 2011), *rehearing denied* (personal email sent by the mayor was not sent in connection with the discharge of any municipal duty and therefore was not a public record under Chapter 119); and *State v. City of Clearwater*, 863 So. 2d 149 (Fla. 2003) (private documents stored in government computers cannot be deemed public records solely by virtue of their placement on an agency-owned computer).

I trust that these informal comments will be helpful to you in advising your client.

Sincerely,

Gerry Hammond
Senior Assistant Attorney General

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[1] *See, e.g., Shevin v. Byron, Harless, Schaffer, Reid & Assoc., Inc.*, 379 So. 2d 633 at 640 (Fla. 1980).