E911 calls, identifying information in offense report

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Subject:
E911 calls, identifying information in offense report

Ms. Lisa H. Rubin
Agency Attorney
Palm Beach County Sheriff
3228 Gun Club Road
West Palm Beach, Florida 33406-3001

RE: E911 CALLS – EMERGENCY SERVICES – PUBLIC RECORDS – confidentiality of identifying information in offense reports. s. 365.171(12), Fla. Stat.

Dear Ms. Rubin:

On behalf of the Honorable Ric L. Bradshaw, Palm Beach County Sheriff, you ask substantially the following question:

Is information regarding an individual who makes a 911 call contained in an offense report confidential and exempt pursuant to section 365.171(12), Florida Statutes, regardless of whether the offense report reflects that a 911 call was made or identifies the individual as having made the 911 call?

In sum:

Information obtained from a 911 call by an agency for the purpose of providing service in an emergency which reveals the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency services or reporting an emergency is confidential while in the custody of the agency. However, identifying information obtained or created independently of the 911 call, for example from a criminal investigation or offense report created as a result of such investigation, is not exempt under section 365.171(12), Florida Statutes.

While you recognize that the exemption clearly applies to the recording of 911 calls and computer aided dispatch records relating to such calls, you question whether an offense report which subsequently includes such information identifying an individual, but not indicating that he or she placed the 911 call or requested emergency assistance would be subject to the exemption. You also question whether the identifying information should be redacted from the offense report when the caller is also the victim, a suspect, or a witness to the incident, and no other exemptions would justify the redaction of such information.

Section 365.171, Florida Statutes, is the "Florida Emergency Communications Number E911

State Plan Act."[1] It is the Legislature's intent

"to implement and continually update a cohesive statewide emergency communications number 'E911' plan for enhanced 911 services which will provide citizens with rapid direct access to public safety agencies by accessing '911' with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services."[2]

Section 365.171(12), Florida Statutes, provides:

"CONFIDENTIALITY OF RECORDS.—*Any record, recording, or information, or portions thereof, obtained* by a public agency or a public safety agency for the purpose of providing services in an emergency and which reveals the name, address, telephone number, or personal information about, or information *which may identify any person requesting emergency service or reporting an emergency by accessing an emergency communications E911 system is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution*, except that such record or information may be disclosed to a public safety agency. The exemption applies only to the name, address, telephone number or personal information about, or information which may identify any person requesting emergency services or reporting an emergency while such information is in the custody of the public agency or public safety agency providing emergency services. . . ." (e.s.)

Thus, application of the exemption hinges upon two conditions: the information was obtained by a public agency or a public safety agency for the purpose of providing services in an emergency; and the information reveals the identity of the person requesting emergency services or reporting the emergency. The Legislature has stated:

"The Legislature finds that it is a public necessity that information received by the agency receiving a '911' call and an agency providing emergency services as a result of that '911' call be held confidential and exempt when it reveals the name, address, telephone number, or personal information about, or information which may identify the person requesting emergency service or reporting an emergency because if it were otherwise, personal, sensitive information, including medical information, would be revealed to the public. The need for emergency services bespeaks a very personal and often traumatizing event. To have this information made publicly available is an invasion of privacy. Additionally, to have such information publicly available could jeopardize the health and safety of those needing emergency services in that people, other than emergency service providers, could actually gain access to the scene of the emergency and thereby impede the effective and efficient provision of emergency services. Furthermore, there are those persons, who, for personal, private gain and/or for business purposes, would seek to capitalize on individuals in their time of need. Those reporting or needing emergency services should not be subjected to this type of possible harassment. Furthermore, to allow such information to become public could chill the reporting of emergency situations to the detriment of public health and safety."[3]

While the Legislature's concern is to protect individuals using 911 to seek emergency assistance from unwanted and potentially detrimental contact, the exemption is couched in terms of information derived from the 911 call which would identify the individual as the one making the call or requesting emergency services. A study by the Florida Senate reviewing the exemption

for purposes of reenactment summarized that the purpose of the exemption is "to shield the identity of any person requesting emergency services or reporting an emergency by accessing the emergency telephone number '911.'"[4] The report noted, however, that the exempted information could be obtained from other official documents, albeit in some instances such information would be protected from disclosure by other statutory exemptions.[5]

The plain language of the statute makes the exemption applicable to any record or information obtained by a public agency for the purpose of providing services in an emergency and which may identify the person as one requesting emergency services or reporting an emergency situation. You have stated that the offense report is a document that may be created as a result of an inquiry or investigation following a 911 call. Such a report, however, does not appear to be a record or information obtained by the law enforcement agency from the 911 call, nor does it necessarily identify the individual as the one making the 911 call or requesting emergency services. While a law enforcement agency may be initially responding to an emergency situation as a result of the 911 call, a subsequent investigation of criminal activity resulting in the creation of an offense report would appear to be distinct from providing emergency services.

It is well settled that the Public Records Law is to be liberally construed in favor of open government and that an exemption from disclosure is to be strictly construed to effectuate its stated purpose.[6] Thus, to shield the identity of one who makes a 911 call, only information obtained by an agency identifying an individual as the caller in a 911 call or one requesting emergency services is confidential. Information placed in an offense report which does not identify an individual as the caller or one requesting emergency services, however, does not meet the requirements set forth for the exemption from disclosure under section 365.171(12), Florida Statutes.

The clear language of the statute makes the exemption applicable to identifying information derived from a 911 call. Thus, the name of a 911 caller or one requesting emergency services that a law enforcement agency has obtained only from the 911 call remains confidential. Information, including names, collected from an investigation which is included in an offense report created as a result of a criminal investigation independent of the 911 call, however, is not protected by the exemption in section 365.171(12), Florida Statutes.

Accordingly, it is my opinion that identifying information derived from a criminal investigation and placed in an offense report by a law enforcement agency does not fall within the exemption in section 365.171(12), Florida Statutes. While information obtained from a 911 call by an agency for the purpose of providing service in an emergency which reveals the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency services or reporting an emergency is confidential, such information obtained or created independently of the 911 call as a result of a criminal investigation is not exempt under section 365.171(12), Florida Statutes. Agencies creating documents which may contain identifying information, however, may wish to be sensitive to the purpose of the exemption in section 365.171(12), Florida Statutes, when placing such information in the documents.

Sincerely,

Pam Bondi
Attorney General

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[1] Section 365.171(1), Fla. Stat.

[2] Section 365.171(2), Fla. Stat.

[3] Section 2, Ch. 96-229, Laws of Fla.

[4] *See* The Florida Senate, Committee on Comprehensive Planning, Local and Military Affairs, Interim Project Report 2001-036, November 2000.

[5] *Id.* at p. 4. Such information may be confidential or exempt from disclosure if it is active criminal investigative information, active criminal intelligence information, or identifies certain victims of crime.

[6] *See Krischer v. D'Amato*, 674 So. 2d 909, 911 (Fla. 4th DCA 1996); *Seminole County v. Wood*, 512 So. 2d 1000, 1002 (Fla. 5th DCA 1987), *review denied*, 520 So. 2d 586 (1988); *Tribune Company v. Public Records*, 493 So. 2d 480, 483 (Fla. 2d DCA 1986), *review denied sub nom., Gillum v. Tribune Company*, 503 So. 2d 327 (Fla. 1987). *And see Southern Bell Telephone and Telegraph Company v. Beard*, 597 So. 2d 873, 876 (Fla. 1st DCA 1992) (Public Service Commission's determination that proprietary confidential business information exemption is to be narrowly construed and not applicable to company's internal self-analysis was "consistent with the liberal construction afforded the Public Records Act in favor of open government").