Law Enf. Officer exemption applies to agency records

Number: INFORMAL

Date: November 04, 2008

Subject:
Law Enf. Officer exemption applies to agency records

Chief Ricardo Gomez
City of Doral Police Department
8300 Northwest 53rd Street, Unit 101
Doral, Florida 33166

Dear Chief Gomez:

The Office of Attorney General Bill McCollum has received a copy of your letter to Intelius in which you state that it is illegal to disclose information relating to the identity of a law enforcement officer.

Section 119.071(4)(d), Florida Statutes, provides that the home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel and the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from section 119.07(1), Florida Statutes. The statute does not prohibit an agency from releasing the name of the law enforcement officer. For agencies that are the custodian of such information, but are not the employer of the officer, the agency shall maintain the exempt status of the personal information only if the officer, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency. *See* section 119.071(4)(d)8., Florida Statutes.

Section 119.071(4)(d), Florida Statutes, however, only provides an exemption from the provisions of section 119.07(1), Florida Statutes, which provides that "[e]very person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records." Thus, the exemption is from the disclosure requirements of the state's Public Records Law and applies only to public records of an agency. "Agency" is defined in section 119.011(2), Florida Statutes, to mean

"any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

Thus, the exemption afforded by section 119.071(4)(d), Florida Statutes, applies only to records

held by a public agency or a private entity acting on behalf of a public agency. It does not apply to or preclude a private company from releasing such information unless, as noted above, that company falls within the definition of "Agency" because it is acting on behalf of a public agency.

I hope that the above informal comments may be of assistance. Thank you for contacting the Attorney General's Office.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/t