5-6-1985

Letter to Margarette Dye regarding SEAALL records, May 6, 1985

James Taylor Jr.

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American Association of
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Dear Sir:

Enclosed herewith is a copy of Sections 119.011, 119.012 and 119.07 of the Florida Statutes. In part, these laws provide that public funds may not be expended in payment of dues or membership contributions to any person, corporation, foundation, trust, association, group, or other organization in instances where said person or organization does not hold certain records subject to public scrutiny. For purposes of documenting your compliance with this legal requirement, a request is made that you complete and sign the following certification; returning same to: Clerk, Board of County Commissioners, P.O. Box 1110, Tampa, Florida 33601; Attention: Accounting department.

Your assistance in this matter is greatly appreciated.

Very truly yours,

JAMES F. TAYLOR, JR., CLERK

BY: Claude Hobbs, Deputy Clerk

CERTIFICATION

This is to certify that all financial, business and membership records of the Southeastern Chapter - American Association of Law Libraries are public records and may be inspected, examined and copied in the time and manner set forth in Sections 119.011, 119.012 and 119.07 of the Florida Statutes.

ATTEST:

SIGNATURE:

An Affirmative Action - Equal Opportunity Employer
CHAPTER 119
PUBLIC RECORDS

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119.01 General state policy on public records.—

(1) It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person.

(2) All agencies shall establish a program for the disposal of records that do not have sufficient legal, fiscal, administrative, or archival value in accordance with retention schedules established with the Division of Archives, History and Records Management of the Department of State.

119.011 Definitions.—For the purpose of this chapter:

(1) "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

(2) "Agency" means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

(c) "Criminal intelligence information" and "criminal investigative information" shall not include:

1. The time, date, location, and nature of a reported crime;
2. The name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.07(3)(h);
3. The time, date, and location of the incident and of the arrest;
4. The crime charged;
5. Documents given or required by law or agency rule to be given to the person arrested; and
6. Informations and indictments except as provided in s. 905.26.

(d) The word "active" shall have the following meaning:

1. Criminal intelligence information shall be considered "active" as long as it is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities.

2. Criminal investigative information shall be considered "active" as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

In addition, criminal intelligence and criminal investigative information shall be considered "active" while such information is directly related to pending prosecutions or appeals. The word "active" shall not apply to information in cases which are barred from prosecution under the provisions of s. 775.15 or other statute of limitation.

(4) "Criminal justice agency" means any law enforcement agency, court, or prosecutor. The term also includes any other agency charged by law with criminal law enforcement duties, or any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting such law enforcement agencies in the conduct of active criminal investigation or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties.

History.—s. 1, ch. 67-135; s. 2, ch. 73-98; s. 3, ch. 75-225; ss. 1, 2, ch. 79-187. F.S. 1983.
119.0115 Videotapes and video signals; exemption from chapter.—Any videotape or video signal which, under an agreement with an agency, is produced, made, or received by, or is in the custody of, a federally licensed radio or television station or its agent is exempt from this chapter.

History.—s. 1, ch. 80-1.

119.012 Records made public by public fund use.—If public funds are expended by an agency defined in s. 119.011(2) in payment of dues or membership contributions to any person, corporation, foundation, trust, association, group, or other organization, then all the financial, business, and membership records pertaining to the public agency from which or on whose behalf the payments are made, of the person, corporation, foundation, trust, association, group, or organization to whom such payments are made shall be public records and subject to the provisions of s. 119.07.

History.—s. 3, ch. 75-225.

119.02 Penalty.—Any public official who shall violate the provisions of s. 119.07(1) shall be subject to suspension and removal or impeachment and, in addition, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 2, ch. 5942, 1909; RGS 425; CGL 491; s. 1, ch. 1713, 1935; CGL 1936 Supp. 5200(6); s. 13, ch. 71-136; s. 6, ch. 75-225.

119.021 Custodian designated.—The elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his designee, shall be the custodian thereof.

History.—s. 2, ch. 67-125; s. 3, ch. 83-286.

119.031 Keeping records in safe places; copying or repairing certified copies.—Insofar as practicable, custodians of vital, permanent, or archival records shall keep them in fireproof and waterproof safes, vaults, or rooms fitted with noncombustible materials and in such arrangement as to be easily accessible for convenient use. All public records should be kept in the buildings in which they are ordinarily used. Record books should be copied or repaired, renovated, or rebound if worn, mutilated, damaged, or difficult to read. Whenever any state, county, or municipal records are in need of repair, restoration, or rebinding, the head of such state agency, department, board, or commission, the board of county commissioners of such county, or the governing body of such municipality may authorize that such records be removed from the building or office in which such records are ordinarily kept for the length of time required to repair, restore, or rebind them. Any public official who causes a record book to be copied shall attest it and certify on oath that it is an accurate copy of the original book. The copy shall then have the force and effect of the original.

History.—s. 3, ch. 67-125; s. 4, ch. 83-286.

119.041 Destruction of records regulated.—Every public official shall systematically dispose of records no longer needed subject to the consent of the Division of Archives, History and Records Management of the Department of State in accordance with chapter 267.

History.—s. 4, ch. 67-125; ss. 10, 35, ch. 69-106, s. 5, ch. 83-286.

119.05 Disposition of records at end of official’s term.—Whoever has the custody of any public records shall, at the expiration of his term of office, deliver to his successor, or if there be none, to the Division of Archives, History and Records Management of the Department of State, all records, books, writings, letters and documents kept or received by him in the transaction of his official business.

History.—s. 5, ch. 67-125; ss. 10, 35, ch. 69-106.

119.06 Demanding custody.—Whoever is entitled to the custody of public records shall demand them from any person having illegal possession of them, who shall forthwith deliver the same to him. Any person unlawfully possessing public records shall upon demand of any person and within 10 days deliver such records to their lawful custodian unless just cause exists for failing to deliver such records.

History.—s. 6, ch. 67-125.

119.07 Inspection and examination of records; exemptions.—

(1)(a) Every person who has custody of public records shall permit the records to be inspected and examined by any person desiring to do so, at reasonable times, under reasonable conditions, and under supervision by the custodian of the records or his designee. The custodian shall furnish copies or certified copies of the records upon payment of fees as prescribed by law or, if fees are not prescribed by law, upon payment of the actual cost of duplication of the copies. Unless otherwise provided by law, the fees to be charged for duplication of public records shall be collected, deposited, and accounted for in the manner prescribed for other operating funds of the agency.

(b) In the case of records produced under this act when the nature or volume of records is such as to require extensive clerical or supervisory assistance by personnel of the agency involved, the agency may charge, in addition to the actual cost of duplication, a reasonable charge, which shall be based on the actual salary rate of such personnel providing the service.

(2)(a) Any person who has custody of public records and who asserts that an exemption provided in subsection (3) or in general or special law applies to a particular record shall delete or excise from the record only that portion of the record for which an exemption is asserted.

(b) In any action in which an exemption is asserted pursuant to paragraph (e) of paragraph (f) of paragraph (g), or paragraph (m) of subsection (3), the record or records shall be submitted in camera to the court for a de novo inspection. In the case of an exemption asserted pursuant to paragraph (d) of subsection (3), an in camera inspection shall be discretionary with the court. If the court finds no basis for the assertion of the exemption, it shall order the record to be disclosed.

(3)(a) All public records which are presently pro-
vided by law to be confidential or which are prohibited from being inspected by the public, whether by general or special law, are exempt from the provisions of subsection (1).

(b) All public records referred to in ss. 199.222, 228.093, 257.261, 388.075, 624.319(6) and (4), and 655.0571(b)(3), (4) are exempt from the provisions of subsection (1).

(c) Examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt from the provisions of subsection (1). However, an examinee shall have the right to review his own completed examination.

(d) Any criminal intelligence information and active criminal investigative information are exempt from the provisions of subsection (1).

(e) Any information revealing the identity of confidential informants or sources is exempt from the provisions of subsection (1).

(f) Any information revealing surveillance techniques or procedures or personnel is exempt from the provisions of subsection (1).

(g) Any information revealing undercover personnel of any criminal justice agency is exempt from the provisions of subsection (1).

(h) Any criminal intelligence or criminal investigative information including the photograph, name, address, or other fact or information which reveals the identity of the victim of any sexual battery as defined by chapter 794 or child abuse as defined by chapter 826 is exempt from the provisions of subsection (1).

(i) Any criminal intelligence or criminal investigative information which reveals the personal assets of a victim of a crime, other than property stolen or destroyed during the commission of the crime, is exempt from the provisions of subsection (1).

(j) All criminal intelligence and criminal investigative information received by a criminal justice agency prior to January 25, 1979, is exempt from the provisions of subsection (1).

(k) The home addresses, telephone numbers, and photographs of law enforcement personnel; the home addresses, telephone numbers, photographs, and places of employment of the spouses and children of law enforcement personnel; and the names and locations of schools attended by the children of law enforcement personnel are exempt from the provisions of subsection (1).

(l) Any information provided to an agency of state government or of a political subdivision for the purpose of forming ridesharing arrangements which information reveals the identity of an individual who has provided his name for ridesharing arrangements as defined in s. 341.031(5) is exempt from the provisions of subsection (1).

(m) Any information revealing the substance of a confession of a person arrested or of witness lists exchanged pursuant to the provisions of Rule 3.220, Florida Rules of Criminal Procedure, is exempt from the provisions of subsection (1), until such time as the charge is finally determined by adjudication, dismissal, or other disposition.

(n) A patient record obtained by the Hospital Cost Containment Board established under s. 395.503 which record contains the name, residential or business address or telephone number, social security or other identifying number, or photograph of any person or the spouse, relative, or guardian thereof of or which record is patient-specific or otherwise identifies the patient, either directly or indirectly, is exempt from the provisions of paragraph (1)(a).

(4) Nothing herein shall be construed to exempt from subsection (1) records made part of a court file and not specifically closed by order of court except as provided in paragraphs (e), (f), (g), and (m) of subsection (3).

(5) The provisions of this section are not intended to expand or limit the provisions of Rule 3.220, Florida Rules of Criminal Procedure, regarding the right and extent of discovery by the state and a defendant in a criminal prosecution.

History.—s. 7, ch. 67-125; s. 4, ch. 75-225; s. 2, ch. 77-60; s. 2, ch. 77-75; s. 2, ch. 77-94; s. 1, ch. 77-156; s. 2, ch. 78-81; s. 2, ch. 80-177; s. 2, ch. 80-273; s. 1, ch. 81-249; s. 1, ch. 82-95; s. 1, ch. 86-280; s. 1, ch. 87-156; s. 1, ch. 87-326; s. 1, ch. 89-401; s. 1, ch. 89-404; s. 1, ch. 91-144; s. 1, ch. 93-136; s. 1, ch. 94-351; s. 1, ch. 95-231; s. 1, ch. 96-146; s. 1, ch. 96-329; s. 1, ch. 97-189; s. 1, ch. 97-335; s. 1, ch. 98-170; s. 1, ch. 98-369; s. 1, ch. 99-284.