



State of North Carolina

Department of Justice

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Reply to: T. BROOKS SKINNER, JR.
CITIZENS' RIGHTS SECTION
(919) 733-4726MICHAEL F. EASLEY
ATTORNEY GENERAL

September 4, 1996

Mr. Daniel F. McMillan
County Manager
Alleghany County
136 South Main Street
Sparta, North Carolina 28675

Dear Mr. McMillan:

Thank you for your recent letter to Wanda Bryant concerning county cellular phone records. Specifically, you asked:

1. Are records of personal phone calls made on a cellular phone supplied by the county to an employee, but which have been reimbursed to the county by the employee, public records?
2. If the record of these calls are not public records, may they be stricken from the log by the employee to maintain the confidentiality of the calls?
3. Would the billing record maintained by the phone company be a public record as is the record maintained by the county?

First, public records are defined as documentary materials that are either made or received by government agencies in North Carolina in carrying on public business. G.S. § 132-1. Phone records of calls made or received by government agencies in carrying on public business are public records. Personal phone calls are not made or received in carrying on public business. Therefore, the records of those calls are not public records.

Second, The public records law does not specifically address the issue of personal phone calls. However, in S.E.T.A. UNC-CH, Inc. v. Huffines, 101 N.C. App. 292, 399 S.E.2d 340 (1991), the Court of Appeals found that there was a public policy privacy interest for individuals engaged in animal research and that consequently their telephone numbers and addresses need not be disclosed. Also G.S. § 132-6(c) implies that an agency may separate confidential information from non-confidential information at the agency's expense before allowing inspection of the public portion of any document. While there is no authority I can find



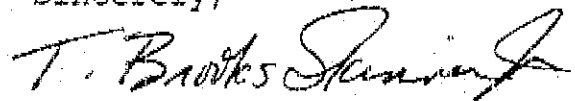
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which is directly on point, the law does indicate that information that the public does not have a right to inspect may be redacted from what is otherwise a public record. Therefore, I believe that it would be appropriate to redact information which is non-public from the public phone records.

Third, the billing records maintained by the phone company are not records made or received in carrying on public business. They are private industry records. Only those billing records sent to and received by the public agency are public records.

This is an advisory letter. It has not been reviewed and approved in accordance with procedures for issuing an Attorney General's opinion. I hope this information proves to be helpful.

Sincerely,



T. Brooks Skinner, Jr.
Associate Attorney General

cc: Wanda G. Bryant, Senior Deputy Attorney General