

## Sanchez, Rodzandra (COE)

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Friday, May 18, 2018 10:33 AM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** Phyllis Smith, Commissioner, City of North Miami Beach (Public Records) INQ 18-120

INQ 18-120 Smith

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**From:** Centorino, Joseph (COE)  
**Sent:** Thursday, May 17, 2018 3:30 PM  
**To:** 'Smithbuzz@gmail.com' <[Smithbuzz@gmail.com](mailto:Smithbuzz@gmail.com)>  
**Cc:** Turay, Radia (COE) <[Radia.Turay@miamidade.gov](mailto:Radia.Turay@miamidade.gov)>; Diaz-Greco, Gilma M. (COE) <[Gilma.Diaz-Greco@miamidade.gov](mailto:Gilma.Diaz-Greco@miamidade.gov)>; Perez, Martha D. (COE) <[Martha.Perez2@miamidade.gov](mailto:Martha.Perez2@miamidade.gov)>; Sanchez, Gerald (CAO) <[Gerald.Sanchez@miamidade.gov](mailto:Gerald.Sanchez@miamidade.gov)>; Kirtley, Eddie (CAO) <[Eddie.Kirtley@miamidade.gov](mailto:Eddie.Kirtley@miamidade.gov)>  
**Subject:** INQ 18-120 Phyllis Smith, Commissioner, City of North Miami Beach (Public Records)

Commissioner Smith:

You have inquired concerning whether phone numbers appearing on your private cell phone from incoming or outgoing telephone calls are public record. I understand that you generally use your business phone for telephone calls, including calls that are related to your service as a Commissioner in the City of North Miami Beach. It is my understanding that this a privately-owned cellphone that you or your husband pays for; that it is not a city-issued cellphone paid for by the City of North Miami Beach. You have indicated that many of the calls that would appear on the phone records, to which you have access, include personal calls made to or received from family members, as well as calls from constituents or other City-related business that, in some cases, have been made by persons who would prefer that their identities or phone numbers not be disclosed. You have access to the records, due to the phone being maintained and paid for through your private business. The City does not receive these records in the course of City business or for the purpose of paying for or reimbursing you for phone usage.

This agency has the authority to interpret and render opinions on public records by virtue of Section (A)(3) of the Miami-Dade County Citizens' Bill of Rights, which provides as follows: "All audits, reports, minutes, documents and other public records of th County and the municipalities and their boards, agencies, departments and authorities shall be open for inspection and copying, consistent with the requirements of the State of Florida public records laws, at reasonable times and places convenient to the public." The State of Florida public records laws are embodied in Chapter 119, Florida Statutes, which includes the following provision: "Every 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 public records." Section 119.07(1)(a), Florida Statutes.

Under these circumstances, it is my opinion that the records of any calls received by or made by you on your private phone that relate to City business, and which are not otherwise exempt under Chapter 119, Florida Statutes, are public record and should be provided upon request, pursuant to Section (A)(3) of the Citizens' Bill of Rights and Section 119.07. See *Media Gen. Operation, Inc. v. Feeney*, 849 So. 2d 3 (1<sup>st</sup> DCA 2003). You should consult with the City Clerk, the official custodian of records for the City, in connection with responding to this request, as well as determining whether there is any exemption under Florida Law regarding any particular record. If necessary, you should consult with the City Attorney on such issues. For example, the home telephone numbers of active or former sworn or civilian law enforcement personnel are confidential and exempt from disclosure pursuant to Section 119.071(4)(d)2.a.(I). It is my opinion that you may redact telephone numbers for telephone calls that entirely private, i.e., related only to personal or private business matters. You must make a good faith effort to go through the records and provide those that relate to

City business. Telephone records that relate to City business, even those from individuals who would prefer not to have the numbers revealed, must be provided unless otherwise exempt from disclosure.

Sincerely,

Joe Centorino

*Joseph M. Centorino*

Executive Director and General Counsel  
Miami-Dade Commission on Ethics and Public Trust  
19 W. Flagler Street, Suite 820  
Miami, FL 33130  
Tel: (305) 579-2594  
Fax: (305) 579-0273  
[ethics.miamidade.gov](http://ethics.miamidade.gov)



## Sanchez, Rodzandra (COE)

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Friday, May 18, 2018 10:33 AM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** FW: INQ 18-120 Supplement

Rodzandra:

Please create a PDF of this email and attach the PDF to INQ 18-120.

Thank you-  
Mimi

-----Original Message-----

From: Ethics (COE)  
Sent: Thursday, May 17, 2018 4:12 PM  
To: 'Phyllis Smith' <smithbuzz@gmail.com>  
Cc: Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>  
Subject: INQ 18-120 Supplement

Commissioner Smith,

I do not think that my opinion would change based on anything in your email. The question of what is connected to City business may involve some judgment, but it should reflect a good faith attempt to comply with the public records law. It does not make any difference that the individual involved is a family member or a personal friend, if the call involved City business related to your position as a City Commissioner. Personal phone calls with family members or friends, or phone calls concerning your private business affairs or medical appointments, are not public record. There is no need to provide any information other than what is in the records that are maintained. For example, there is no need to create any record to provide details of any conversation, only what is already recorded in the records you have access to.

Sincerely,

Joe Centorino

Joseph M. Centorino  
Executive Director and General Counsel  
Miami-Dade Commission on Ethics and Public Trust  
19 W. Flagler Street, Suite 820  
Miami, FL 33130  
Tel: (305) 579-2594  
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-----Original Message-----

From: Phyllis Smith [mailto:smithbuzz@gmail.com]

Sent: Thursday, May 17, 2018 3:41 PM

To: Ethics (COE) <ethics@miamidade.gov>

Subject: Phone records request, Joe Centorino

This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected emails. Please click here if this is a suspicious message [reportspam@miamidade.gov](mailto:reportspam@miamidade.gov) <b> Enterprise Security Office </b>

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Mr. Centorino,

Thank you again for taking the time with me today regarding the above subject. As you know, this is a very sensitive issue. There is NOTHING to hide, but there is a lot of very personal phone numbers on those records. My clients in my real estate profession, my friends that have phone numbers that they do not give out (my best friend is a physician), and random phone numbers of people that call from the real estate signs. There may even be phone numbers that are on the 'do not call'

list.

My phone is owned and paid for by Central Plumbing. The family and business phones were set up by my husband that way years ago.

This is truly a little bit complicated because going back two months and hundreds of phone calls, it will be very difficult to try to distinguish the calls. Of course, I will do my best.

Just seems unreasonable to give out phone numbers without permission.

That is never the way I handle a phone number request. I always call the person first and ask if it okay to give out their number. If they say yes, I call back to the one requesting and give them the number.

How do I know, once this phone list is received, the person requesting these numbers won't start calling them. For instance, a gentleman that owns a building in our community had his secretary call me for an appointment, is she going to receive a call now asking what we spoke about? Or the 95 year old women who called to ask for three tickets for NMB's Mother's Day breakfast. Again, nothing to hide; however, it will be annoying for these people, I am sure.

Stating that talking to a family member about City business is a required number to give also seems unreasonable. As the call may mention the name of the new City Mayor. Is that really City business?

Any further help you can give, as always, will be more than appreciated!

Thank you,

Phyllis Smith

Commissioner, North Miami Beach

Sent from my iPhone=