

1981 WL 158157 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 20, 1981

*1 Lt. B. J. Duncan
Detective Division
Sheriff, Pickens County
P. O. Box 491
Pickens, S. C. 29671

Dear Lt. Duncan:

I am in receipt of your letter to Mr. McLeod dated February 11, 1981, concerning information which your office is seeking from the Department of Juvenile Placement and Aftercare. In particular, you want to know whether or not the law enforcement agency can have direct access to information from Juvenile Placement and Aftercare about whether or not a juvenile referred to the Family Court has completed the terms given by the Court at the dispositional hearing.

As you are aware, [Section 14-21-30, Code of Laws of South Carolina \(1976\)](#), as amended, provides generally for confidentiality of records of juveniles under the jurisdiction of the Family Court. The section in its pertinent part now reads as follows:

‘[T] official juvenile records of the courts, the Department of Youth Services and Department of Juvenile Placement and Aftercare shall be open only by consent of the judge to persons having a legitimate interest but shall always be available to the legal counsel of the juvenile. All information obtained . . . in the discharge of official duty by an employee of the court, Department of Youth Services, and Department of Juvenile Placement and Aftercare shall be confidential and shall not be disclosed directly or indirectly to anyone, other than the judge or others entitled under this chapter and Chapters 15 and 17 of Title 24 to receive such information unless and until other ordered by the judge.’

The statute provides four situations in which juvenile records might be disclosed.

- (1) The recipient is entitled to the records under Chapter 21 of Title 14 or Chapters 15 or 17 of Title 24;
- (2) The records are not ‘official’ or do not constitute ‘information obtained and social records prepared in the discharge of official duty,’ or
- (3) The records are necessary to defend against any action initiated by the juvenile.
- (4) In the event neither (1), (2), or (3) apply, the records and information may be disclosed to persons having a legitimate interest by order of the family court.

There can be no dispute that the dispositional status of a juvenile is within the records and information obtained in the discharge of an official duty by the Department of Juvenile Placement and Aftercare. Thus, any such information can be disclosed only after appropriate court authorization, unless disclosure is otherwise mandated in the Code.

A review of the relevant portions of Chapter 21 of Title 14 or Chapter 15 or 17 of Title 24 does not provide special access to dispositional information by law enforcement agencies without appropriate authorization by the family court judge. [Compare](#), § 14-21-500, 560, and 590. [Code of Laws \(1976\)](#). Law enforcement departments and peace officers could be a party having a ‘legitimate interest’ in access to the desired information depending on individual circumstances. However, [Section 14-21-30](#)

makes it clear that information in the possession of the Department concerning juveniles under its care and custody are to be treated as confidential, subject to disclosure only under the provisions of the Act.

*2 Therefore, the decision as to who has a legitimate interest in the information about a juvenile is not to be made by employees of the Department of Juvenile Placement and Aftercare, nor the law enforcement agencies of the state requesting such information. All doubts concerning disclosure should be resolved in the favor of juveniles. Therefore, the family court judge is the sole arbiter of these disclosure decisions determined on a case by case basis by court order.

If I may be of further assistance, please let me know.

Very truly yours,

Donald J. Zelenka
Assistant Attorney General

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