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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

September 22, 1995

The Honorable James R. Metts, Ed.D.
Sheriff, Lexington County
Post Office Box 639
Lexington, South Carolina 29071

Re: Informal Opinion

Dear Sheriff Metts:

You note that your office is continuously confronted with the question of when you can release the name of a juvenile to the public, including the media. You further state:

> [w]e have always taken the position that we cannot release the name of any juvenile, even a victim, because Section 20-7-600(D) of the South Carolina Code of Laws (1976, as amended) prohibits peace officers' records of children from being open to public inspection. One may argue that this paragraph just applies to children who have been charged with a crime, but the language of the paragraph does not limit itself [to] those children. However, lately we have had to make an exception to our position because otherwise we could not release the name of a missing child.
>
> If you determine that Section 20-7-600(D) does not prohibit us from releasing the name of a child other than one who has been charged with a crime, does Section 20-7-690 prohibit us from releasing the name of a child on whom the Department of Social Services also has a case?

S.C. Code Ann. Sec. 20-7-600, on its face, relates to the authority of law enforcement officers to take a child into custody. Subsection (A) refers to a child "violating a criminal law or ordinance, or whose surroundings are such as to endanger his welfare ...". The Subsection provides that the jurisdiction of the Family Court "attaches from the time of taking the child into custody." This Subsection further states:

> [w]hen a child is so taken into custody, the officer taking the child into custody shall notify the parent, guardian, or custodian of the child as soon as possible. Unless otherwise ordered by the court, the person taking the child into custody may release the child to a parent, a responsible adult, a responsible agent of a court-approved foster home, group home, nonsecure facility, or program upon the written promise, signed by the person, to bring the child to the court at a stated time or at a time the court may direct. The written promise, accompanied by a written report by the officer, must be submitted to the South Carolina Department of Juvenile Justice as soon as possible, but not later than twenty-four hours after the child is taken into custody. If the person fails to produce the child as agreed, or upon notice from the court, a summons or a warrant may be issued for the apprehension of the person or of the child.

Section 20-7-600(B) mandates that if a child is not released pursuant to subsection (A), the officer taking the child into custody shall immediately notify the authorized representative of the Department of Juvenile Justice, who shall respond within one hour to the location where the child is being detained. Such authorized representative is required to review all the relevant facts and advise the officer if, in his opinion, "there is a need for detention of the child."

As you indicate, Subsection (D) is the provision which is most relevant to your inquiry. That provision states:

> [P]eace officers' records of children must be kept separate from records of adults, must not be open to public inspection, and may be open to inspection only by governmental agencies authorized by the judge.

This provision, as noted by you, on its face, is not limited to circumstances where a child is charged with a violation of law. While other portions of Section 20-7-600 expressly relate to violations of law by a child, see, e.g. § 20-7-600(B), (C), (F), (G), (H), (I) and (J), Subsection (A) appears to be the provision which triggers custody, and it is not so limited ("When a child ... whose surroundings are such as to endanger his welfare, is taken into custody ....").

Several well-settled principles of statutory construction are particularly appropriate for application here. Of course, the cardinal rule of statutory construction is to ascertain and effectuate the actual intent of the Legislature. In discerning the General Assembly's intent, statutes which are part of the same act must be read together. Burns v. State Farm Mut. Auto Ins. Co., 297 S.C. 520, 377 S.E.2d 569 (1989). Courts look to the language of a statute as a whole in light of its manifest purpose. Simmons v. City of Columbia, 280 S.C. 163, 311 S.E.2d 732 (1984). Additionally, in seeking legislative intent, it is proper to consider cognate legislation. Abell v. Bell, 229 S.C. 1, 91 S.E.2d 548 (1956).

As you have also indicated, other closely-related statues should be considered as well. Section 20-7-610 authorizes a law enforcement officer to

> ... take a child into protective custody without the consent of parents, guardians or others exercising temporary or permanent control over the child if:
>
> (1) He has probable cause to believe that by reason of abuse or neglect there exists an imminent danger to the child's life or physical safety.
>
> (2) Parents, guardians or others exercising temporary or permanent control over the child are unavailable or do not consent to the child's removal from their custody.
>
> (3) There is not time to apply for a court order pursuant to § 20-7-736.

Moreover, Section 20-7-690 provides in pertinent part:

> (A) All reports made and information collected pursuant to this article maintained by the State Department of Social

> Services, local child protective service agencies, and the Central Registry of Child Abuse and Neglect are confidential. Any person who disseminates or permits the unauthorized dissemination of the information is guilty of a misdemeanor and upon conviction must be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

This statute contains only certain limited exceptions not relevant here. See also, Section 20-7-605 (detention of juveniles; records maintained by law enforcement agencies).

Furthermore, Section 20-7-780 generally provides for confidentiality of Family Court records regarding juveniles. That Section states in pertinent part:

> [t]he official juvenile records of the courts and the Department of Juvenile Justice are open to inspections only by consent of the judge to persons having a legitimate interest but always must be available to the legal counsel of the juvenile. All information obtained and social records prepared in the discharge of official duty by an employee of the court or Department of Juvenile Justice is confidential and must not be disclosed directly or indirectly to anyone, other than the judge or others entitled under this chapter to receive this information unless otherwise ordered by the judge. However, these records are open to inspection without the consent of the judge where the records are necessary to defend against an action initiated by a juvenile.

In accordance with this provision, this Office has recognized "that Family Court records pertaining to child abuse are confidential." Op. No. 83-93 (December 7, 1983).

Noted also is the fact that the General Assembly has made specific exception for release of information regarding certain violent juvenile offenders. In Section 20-7-780(B), authorization is given to the Department of Juvenile Justice, if requested, to provide the victim of a violent crime, as defined in Section 16-1-60 "with the name and other basic information about the juvenile charged with the crime and with other basic descriptive information about the juvenile charged with the crime ...." In addition, Section 20-7-770 also provides for certain limited disclosure of information regarding violent juvenile offenders.

It is my opinion that there would be no statutory prohibition as to the disclosure of the name of a missing child not in custody pursuant to provisions such as Section 20-7-600 or 20-7-610. While it is true that Subsection (D), if viewed in isolation, does not appear to be limited in its scope to children who are taken into custody pursuant to Subsection (A), it is apparent to me that, reading all provisions of the statute together, such is the Legislature's intent. The statute, read in its entirety, relates to the taking of children into custody either because of a violation of law or where the child's surroundings are "such as to endanger his welfare." In my judgment, it does not relate to other children or juveniles who have been reported "missing".

As was noted in Op. No. 85-126 (October 29, 1985), Sections 20-7-600 and 20-7-610 authorizes law enforcement officers to take juveniles into custody in certain situations other than for the commission of a crime or violation of law. There, we recognized, however that "custody" was the triggering event for the invocation of those statutes:

> [r]eferencing the above, it is clear that in addition to the authority to take a child into custody where the child commits a crime, pursuant to Sections 20-7-600 and 20-7-610, a child may be taken into custody where the child commits a crime, pursuant to Sections 20-7-600 and 20-7-610 a child may be take into custody in the other situations, such as where the child's welfare, life, or physical safety is endangered. (emphasis added).

As to your question regarding the applicability of Section 20-7-690, that statute relates expressly to "reports made and information collected pursuant to this article maintained by the State Department of Social Services, local child protective service agencies and the Central Registry of Child Abuse and Neglect." The statute clearly renders such information confidential. So long as information contained in these specified files is not released, however, Section 20-7-690 would not appear to be implicated. Merely releasing the name of a missing child where such name is otherwise obtained would not appear to invoke the statute. See, Op. Atty. Gen., February 3, 1982 (release by police officer of information obtained from sources other than those records made confidential by the statute in question).

In conclusion, the release of the name of a missing child not in custody would not, in my judgment, trigger the confidentiality requirements of Section 20-7-600(D). Nor would Section 20-7-690 be implicated, unless there was release of information from those records specified therein.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,

Robert D. Cook
Assistant Deputy Attorney General

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