

1982 WL 189156 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 3, 1982

\*1 Mr. Hugh E. Munn  
Information Director  
SLED  
Post Office Box 21398  
Columbia, South Carolina 29221

Dear Mr. Munn:

You have requested an opinion as to whether it is lawful for a police official to release to the news media the name of a juvenile charged with a crime.

The section of the Code which governs the release of information in juvenile matters is § 14-21-30. In the case of State ex rel. The Times and Democrat, etc., — S.E.2d — (1981), the portion of this section which prohibited publication of the name or picture of the juvenile by the media was held unconstitutional. However, this decision did not reach the issue of whether a prohibition of disclosure would be improper. Regarding that, the U.S. Supreme Court has held that ‘there is no reason why, consistently with due process, a state cannot continue, if it deems it appropriate, to provide and to improve provision for the confidentiality of records of police contacts and court action relating to juveniles.’ Re Gault, 387 U.S. 1, 25 (1967). Thus, except to the extent that the statute violated the First Amendment rights of the media, § 14-21-30 is otherwise constitutional.

The records which § 14-21-30 deems confidential are the official juvenile records of the courts, the Department of Youth Services, the Department of Juvenile Placement and Aftercare, as well as ‘[a]ll information obtained and social records prepared in the discharge of official duty by an employee of the court, Department of Youth Services and Department of Juvenile Placement and Aftercare . . .’ The statute further prohibits the taking of fingerprints of any child unless permitted by the Family Court Judge.

By its terms, this statute only requires court records and agency records to be kept confidential, as well as information obtained by an employee of the court and of the agencies named. Accordingly, if a police officer has information which he did not obtain from the records designated confidential, there is nothing in this statute to prohibit disclosure by him of that information. The failure of such provisions to provide complete secrecy to juvenile proceedings was noted in Re Gault, supra, 387 U.S. at 24-25. However, while there is nothing in the statute to prohibit disclosure, there is also nothing in the constitution which requires it, as the quote above from Re Gault indicates.

For the foregoing reasons, it is the opinion of this office that a police officer may disclose, but is not required to disclose, information concerning juvenile proceedings which he has acquired through means other than the records set forth in § 14-21-30. Sincerely yours,

Kenneth P. Woodington  
Assistant Attorney General

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