

1980 S.C. Op. Atty. Gen. 128 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-77, 1980 WL 81959

Office of the Attorney General

State of South Carolina

Opinion No. 80-77

July 2, 1980

***1 SUBJECT: Juvenile Delinquency; Records**

(1) Law enforcement agencies have a legal responsibility to make and maintain arrest records or offense reports on juvenile offenders.

(2) There is no prohibition against South Carolina Law Enforcement Division (SLED) receiving juvenile offense and arrest data on standardized incident and booking report forms as long as the information is statistical data and does not contain information of any identifying nature such as name, address, or fingerprints.

(3) Law enforcement or detention agencies are not prohibited by law from disseminating to other criminal justice agencies any statistical data involving juvenile offenders, however, dissemination of any information of an identifying nature to other criminal justice agencies is prohibited unless authorized by the judge of the family court.

TO: G. W. Hamby, Lt.
SLED

QUESTIONS:

1. Is there any prohibition against law enforcement agencies making and maintaining arrest records or offense reports on juvenile offenders?
2. Is there any prohibition against SLED receiving juvenile offense and arrest data on standardized incident and booking report forms?
3. Is there any prohibition against law enforcement or detention agencies disseminating to other criminal justice agencies copies of juvenile arrest or custody reports whenever these reports are to be used in carrying out legitimate criminal justice activities?

STATUTES AND CASES:

Sections 23-3-130, 23-3-140, 14-21-590, 14-21-30; South Carolina Code of Laws, (1976), as amended;

Rule 73-30, Uniform Crime Reporting; [In Re Gault](#), 387 U.S. 1, 87 S.Ct. 1428; 18 [Led.2d](#) 527 (1967).

DISCUSSION:

1. Under the authority of [Section 23-3-130 of the South Carolina Code of Laws](#), (1976), as amended, all law enforcement agencies are under a statutory obligation to report to SLED all criminal data within their respective jurisdictions in such form as SLED may require. Pursuant to this authority, Rule 73-30 was promulgated specifying that the information be conveyed to SLED through the standardized arrest and incident reports.

Absent any law prohibiting the disclosure of said information, this requirement to convey information is obligatory. (See Sec. 23–3–140).

A careful review of the statutory law relating to juvenile offenders, does not reveal any prohibition against the maintenance of such records on juvenile offenders by various law enforcement agencies. In fact, Section 14–21–590 of the Family Court Act provides in pertinent part that:

‘Peace officers’ records of children shall be kept separate from records of adults . . .’

Therefore, the clear implication resulting from the language of Section 14–21–590, when read in conjunction with Rule 73–30, is that law enforcement agencies are not only responsible for maintaining records on juvenile offenders, but have a legal obligation to do so. Therefore, it is the opinion of this office that all law enforcement agencies have a legal obligation to make and maintain records on juvenile offenders.

*2 2. As previously stated, it is the legal obligation of all law enforcement agencies to report all criminal data within their respective jurisdictions to SLED in such form as may be required by SLED under [Section 23–3–130](#) except where release of the requested information is in violation of the law. (See Sec. 23–3–140). The Rules promulgated by SLED pursuant to Section 23–3–13 require that reports be recorded on standard incident reports and booking reports.

In a previous opinion issued by this office, it has been held that the collecting of information dealing with age, sex and race of persons or other impersonal, non-identifying data is legal under the laws of this State. (Letter from Assistant Attorney General Hudson Davis to SLED dated February 7, 1975). The release of such non-identifying information does not violate Section 14–21–590 which requires that juvenile records not be open to inspection by government agencies unless authorized by the judge of family court. The meaning of Section 14–21–590 must be read in light of Section 14–21–30¹ which prohibits the publication or release of personal, identifying information. Therefore, as long as the information received on the standard booking and incident reports is of a statistical nature and does not contain names, addresses, fingerprints or other identifying information, it is the opinion of this office that the law enforcement agencies are under a legal obligation to provide the information to SLED.

3. The basis for the general prohibition of Section 14–21–590 and 14–21–30 against the release of juvenile records is the law’s policy of protecting juveniles from public disclosure of their deviational behavior. As stated in [In Re Gault, 387 U.S. 1, 87 S.Ct. 1428, 18 F.2d 527 \(1967\)](#), it is the law’s policy ‘to hide youthful errors from the full gaze of the public and bury them in the graveyard of the forgotten past.’

This general prohibition then is against release to the general public. While government agencies involved in the criminal justice system do not properly fit into this general category, the specific language of Section 14–21–590, provides that juvenile arrest records will be open to inspection only by such governmental agencies as authorized by the judge. Therefore, it is the opinion of this office that names and other identifying information of juvenile offenders may be released to other governmental agencies only if authorized by the judge, while statistical information may be released without judicial authorization.

CONCLUSIONS:

1. Law enforcement agencies have a legal responsibility to make and maintain arrest records and/or offense reports on juvenile offenders.
2. Law enforcement agencies are under a legal obligation to provide statistical information on juvenile arrests to SLED.
3. Only statistical information contained in Juvenile arrest or custody reports can be disseminated to other criminal justice agencies without authorization by a family court judge under the existing law in South Carolina.

***3** B. J. Willoughby
Assistant Attorney General

Footnotes

- 1** Section 14-21-30 was amended by Act of the General Assembly (R590, H2783) to include records of the Department of Youth Services and Department of Juvenile Placement and Aftercare and to provide that the Department of Youth Services may fingerprint a juvenile upon his commitment to a juvenile correctional institution, but such fingerprints shall remain confidential information and shall not be transmitted to the files of SLED or the FBI.

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