

Access to reports of child abuse or neglect

Number: INFORMAL

Date: October 25, 2001

Subject:
Access to reports of child abuse or neglect

The Honorable David D. Russell
Representative, District 44
The Lincoln Centre
12511 Spring Hill Drive
Spring Hill, Florida 34609-5069

RE: INSPECTOR GENERAL–PUBLIC RECORDS–DEPARTMENT OF CHILDREN AND FAMILIES–access to reports of child abuse or neglect. ss. 20.055, and 39.202, Fla. Stat.

Dear Representative Russell:

Thank you for considering this office as a resource in determining whether records and reports in cases of child abuse or neglect may be provided to certain individuals. A constituent of yours, Ms. Robin M. Eddins, has written you and requested that you contact this office for assistance in determining the availability of such records.

Section 39.202, Florida Statutes, provides for the confidentiality of reports and records in child abuse or neglect cases. The Legislature's intent is expressed in subsection (1) of the statute:

"In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, all records held by the department concerning reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by this chapter. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section."

The language of the statute clearly states that this information, while available to those listed, is confidential and exempt from the Public Records Law in the hands of these individuals and entities. Thus, information which is provided under this section to an official of the Department of Children and Families such as the inspector general as contemplated by 39.202(2)(h), Florida Statutes, is confidential and exempt in the hands of the inspector general.

A 1999 Attorney General's Opinion, AGO 99-42, considered the confidentiality of information contained in child abuse records discussed during an investigatory interview by the agency inspector general for the discipline of an employee of the Department of Children and Families. As that opinion notes,

"[n]o exception from confidentiality is contained in section 39.202, Florida Statutes (1998 Supplement), relating to investigatory interviews conducted by the agency inspector general with agency personnel who have been accused of wrongdoing. Exemptions to the Public Records Law must be construed to accomplish their stated purpose and this office will not recognize an exception under these circumstances in the absence of a direct legislative statement allowing disclosure of this information."

I am enclosing a copy of the opinion for your consideration as it discusses section 39.202, Florida Statutes, and the basis for confidentiality of these records.

I trust these informal comments will be helpful to you in advising your constituent.

Sincerely,

Gerry Hammond
Assistant Attorney General

GH/tgk

Enclosure