

Public Records, reports to domestic violence center

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Subject:

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Mr. Richard F. Wierzbicki
Assistant Chief of Police
Wilton Manors Police Department
524 Northeast 21st Court
Wilton Manors, Florida 33305

Dear Mr. Wierzbicki:

You ask whether juvenile information contained in various reports must be deleted prior to being sent to a domestic violence center. This question arises in light of the conclusion reached in AGO 92-14.

In AGO 92-14, this office concluded that information revealing the identity of a victim of sexual battery, child abuse, or lewd, lascivious or indecent assault upon or in the presence of a child is part of a criminal investigation or criminal intelligence, regardless of its "active"[1] status, which must be excised from the copy of a report of domestic violence forwarded by a law enforcement agency to a domestic violence center pursuant to s. 741.29, F.S.

The conclusion in AGO 92-14 is limited to a specific type of information (the identity of the *victim* of sexual battery, child abuse, or lewd, lascivious or indecent assault upon or in the presence of a child) which is exempt from disclosure pursuant to s. 119.07(3)(h), F.S. While normally the information revealing the identify of a victim of domestic violence would be included in the report, this information is made exempt from disclosure by s. 119.07(3)(h), F.S., even after the information is no longer "active."

Thus, s. 119.07(3)(h), F.S., would not operate to shield the names of all juveniles which may appear in a report of domestic violence which is forwarded to a domestic violence center, unless the child is the victim of a sexual battery, child abuse, or lewd, lascivious or indecent assault.

Generally, records relating to juveniles are confidential and may not be released to anyone other than specified individuals or agencies. With limited exceptions,[2] s. 39.045(5), F.S., provides that

"all information obtained pursuant to this chapter in the discharge of official duty by any judge, any employee of the court, any authorized agent of the department . . . or any law enforcement agent shall be confidential and shall not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, the Department of Corrections, the Parole Commission, the Commission on Juvenile Justice, law enforcement agents, school

superintendents and their designees, and others entitled under this chapter to receive that information, except upon order of the court."

A child may be taken into custody for "a delinquent act or violation of law, pursuant to Florida law pertaining to a lawful arrest." [3] The law enforcement agency may fingerprint and photograph a child taken into custody, if there is probable cause to believe that the child has committed a violation of law. [4] Such fingerprint records and photographs must be maintained by the law enforcement agency in a separate file maintained only for that purpose and marked "Juvenile Confidential." These records "shall not be available for public disclosure and inspection s. 119.07(1), but shall be available to other law enforcement agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, and any other person authorized by the court to have access to such records." [5]

If the child is found to have committed an offense which would be a felony if committed by an adult, then the law enforcement agency must retain the originals and send copies to the court along with a written offense report relating to the matter for which the child was taken into custody. [6] After disposition of the case, the court forwards duplicates of the fingerprints and photographs, together with the child's name, address, date of birth, age, and sex, to the Florida Department of Law Enforcement, the sheriff of the county in which the child was taken into custody, and upon request, to the law enforcement agencies of specified cities in the county of request. [7] These fingerprint records and photographs, however, may only be used for identification purposes. [8]

Thus, the identity of a juvenile who has committed a criminal act is confidential and must be maintained separately from other records of criminal activity. Such information may be released only to those persons or agencies enumerated in the statutes making it confidential. It does not appear that the domestic violence center would fall within the list of those enumerated agencies which may receive juvenile information.

I trust these informal comments will assist you in resolving this matter. This informal opinion was prepared by the Division of Opinions in order to provide guidance in the resolution of the issues you have raised. It does not constitute a formal opinion of the Attorney General.

Sincerely,

Lagran Saunders
Assistant Attorney General

[1] See s. 119.011(3)(d), F.S., defining the term "active" for purposes of criminal intelligence or investigative information. See *also* s. 119.011(3)(c)2., F.S., stating that "criminal intelligence information" and "criminal investigative information" do not include "[t]he name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.07(3)(h)."

[2] Section 39.045(3), F.S., provides for the retention and sealing of records of incidents committed by a child which, if committed by an adult, would be a crime specified in ss. 110.1127,

393.0655, 394.457, 396.0425, 397.0715, 402.305(1), 409.175, and 409.176, F.S., but limits their use to screening requirements for personnel pursuant to s. 402.3055 or department rule. Section 39.045(8), F.S., allows inspection of Department of Health and Rehabilitative records upon order of the secretary of the department to those persons who have sufficient reason and upon such conditions and use as the secretary or his designee deems proper.

[3] Section 39.037(1)(b), F.S.

[4] Section 39.039(1)(a), F.S.

[5] Section 39.039(1)(a), F.S.

[6] Section 39.039(2), F.S.

[7] Section 39.039(2)(a), (b), and (c), F.S.

[8] Section 39.039(3), F.S.