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The State of South Carolina



Office of the Attorney General

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February 11, 1993

Frampton Durban, Jr., Esquire
Managing Assistant Solicitor
Ninth Judicial Circuit
Family Court Division
Post Office Box 58
Charleston, South Carolina 29402

Dear Mr. Durban:

In a letter to this Office you raised the following question.

Does S.C. Code Ann. Section 20-7-340 allow the Office of the Solicitor, the South Carolina Department of Youth Services, or the Family Court to release identifying information on a juvenile to a victim of an offense involving personal injury or property damage by that juvenile for purposes of a civil action; and, if so, must that disclosure be made only after the juvenile has been adjudicated delinquent for the offense charged?

S. C. Code Ann. Section 20-7-780 states in part:

... The official juvenile records of the courts and the Department of Youth Services are open to inspection 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 Youth Services 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

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the judge where the records are necessary to defend against an action initiated by a juvenile.

(B) The Department of Youth Services, if requested shall provide the victim of violent crime, as defined in Section 16-1-60, with the name and other basic descriptive information about the juvenile charged with the crime and with information about the juvenile justice system, the status and disposition of the delinquency action

S.C. Code Ann. Section 20-7-340 authorizes governmental entities, businesses and individuals to institute civil damages suits against the parents or legal guardians of minors under the age of eighteen who cause personal injury or property damage.

In reviewing your question, consideration must be given to the mandate of Article I, Section 9 of the State Constitution which mandates "all courts shall be public." However, as stated by the South Carolina Supreme Court in Steinle v. Lollis, 279 S.C. 375, 307 S.E.2d 230 (1983) the public right of access to courts "... is not absolute but subject to a proper balancing of competing interests." As stated, Section 20-7-780 generally provides for confidentiality of official juvenile records of the courts and the Department of Youth Services unless otherwise ordered by the judge or where necessary to defend against any action brought by a juvenile. DYS is permitted to provide the victim of a violent crime with specified information. Such provisions mandating confidentiality are consistent with provisions of S.C. Code Ann. Section 20-7-3300 which also provides for confidentiality of records and information of the Department of Youth Services relating to juveniles. I am unaware of any specific statutory reference to confidentiality by a solicitor's office. However, ethical considerations may argue against disclosure in light of the specific provisions mandating confidentiality.

Referencing the above it appears that there is a conflict between statutes which provide a civil remedy for damages incurred as the result of actions by a juvenile and statutes which mandate confidentiality of records and proceedings involving juveniles. In the absence of legislative clarification, this Office is unable to state categorically that information identifying a juvenile to victims of an offense by that juvenile may be provided except where statutorily authorized. Of course, in seeking restitution consideration may be given to other provisions which authorize restitution in certain instances involving juveniles. S.C. Code Ann. Section 20-7-1330 provides for the imposition of restitution as a condition of probation. S.C. Code Ann. Section 20-7-2125

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provides for restitution as a condition of correctional release of a juvenile by the Board of Juvenile Parole.

With kind regards, I am

Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions