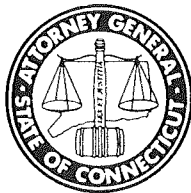


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Office of The Attorney General
State of Connecticut

October 24, 2013

The Honorable Reuben Bradford
Department of Emergency Services & Public Protection
1111 Country Club Road
Middletown, CT 06457

Dear Commissioner Bradford:

This letter responds to your request for a formal legal opinion clarifying whether members of the Fingerprint Identification Unit (Unit) within the Division of Scientific Services at the Department of Emergency Services and Public Protection (DESPP) have the statutory authority to share juvenile fingerprint information with other members of law enforcement during a criminal investigation or whether a court order is required before the juvenile fingerprint information can be shared with other members of law enforcement.

The determination turns on whether the fingerprint information maintained by the Unit falls within the definition of a record of a juvenile matter involving a delinquency proceeding and whether the request is made in connection with a legitimate criminal investigation. For the reasons set forth below, we conclude that members of the Unit may share, without a court order, juvenile fingerprint records involving delinquency proceedings with other law enforcement officials who are conducting a legitimate criminal investigation. Absent a court order, however, the Unit may not share a juvenile fingerprint on file if such record is a record of a case of a juvenile matter other than a delinquency proceeding.

You have stated that the Unit is the keeper of fingerprint records, including juvenile fingerprint records collected from juvenile matters, arrests and convictions. We understand that the Unit requires in all cases that state or municipal law enforcement officers obtain a search warrant before the Unit will release juvenile fingerprint information to them. Specifically, if presented with a latent print that matches a juvenile fingerprint on record, the Unit requires a search warrant before it will release the juvenile information except if the request is made in connection with a pending delinquency proceeding. Thus, a law enforcement officer must apply to the Superior Court and establish probable cause to believe that the juvenile fingerprint information may help to identify a suspect in a criminal case. You have asked whether Conn. Gen. Stat. § 46b-124 permits the Unit to share juvenile records, including fingerprint records, with law

enforcement without a court order and prior to the commencement of any delinquency proceeding.

In construing a statute, the fundamental objective is to ascertain and give effect to the apparent intent of the legislature. *American Promotional Events, Inc. v. Blumenthal*, 285 Conn. 192, 201 (2008). In searching for the legislative intent, a court looks “first to the text of the statute itself and its relationship to other statutes.” *Id.* at 202, citing Conn. Gen. Stat. § 1-2z. If the text of the statute is not clear and unambiguous, it is appropriate to look to the statute’s “legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relations to existing legislation and common law principles governing the same general subject matter.” *Fairchild Heights, Inc. v. Dickal*, 305 Conn. 488, 497 (2012).

Conn. Gen. Stat. § 46b-124(a) broadly defines “[r]ecords of cases of juvenile matters” to include:

court records, records regarding juveniles maintained by Court Support Services Division, records regarding juveniles maintained by an organization or agency that has contracted with the Judicial Branch to provide services to juveniles, records of law enforcement agencies including fingerprints, photographs, and physical descriptions, and medical, psychological, psychiatric and social welfare studies and reports by juvenile probation officers, public or private institutions, social agencies and clinics (emphasis added).

The plain language of Conn. Gen. Stat. § 46b-124(c) states: “All records of cases of juvenile matters involving delinquency proceedings, or any part thereof, shall be confidential and for the use of the court in juvenile matters and shall not be disclosed except as provided in this section.”¹

Section 46b-124(d) enumerates several exceptions to the confidentiality provision of subsection (c). Relevant for purposes of this opinion is that portion of subsection (d) providing that “[Records of cases of juvenile matters involving delinquency proceedings] shall also be available to... (iv) law enforcement

¹ The phrase “involving delinquency proceedings” refers to proceedings in which a child is accused of a delinquent act, in contrast to other juvenile matters such as child protection cases (children under the age of 18 that are alleged to have been abused, neglected or uncared for or are the subject of a petition to terminate parental rights) and family with service needs (FWSN) cases. See Conn. Gen. Stat. § §46b-120 and 46b-121.

officials and prosecutorial officials conducting legitimate criminal investigations...” There is no requirement or limitation in this subsection that the disclosure to law enforcement officials be in connection with or related to a pending juvenile proceeding. Thus, the plain language of the statute provides that fingerprint records of a juvenile involving a delinquency matter shall be disclosed to law enforcement conducting a legitimate criminal investigation. There is no requirement that this legitimate criminal investigation have reached a point where a delinquency proceeding has commenced. Rather, the limitation imposed by the legislature in § 46b-124(c) is that the fingerprint record on file be one created in connection with or resulting from a juvenile matter involving a delinquency proceeding.²

This conclusion that the legislature did not intend that law enforcement conducting a legitimate criminal investigation first obtain a warrant before accessing a record of a juvenile matter involving a delinquency proceeding is further supported by the legislative history of the statute. Public Act 95-225 amended § 46b-124 and added the specific exception for disclosure to law enforcement conducting legitimate criminal investigations. As we have previously opined, *see* 1997 WL 851213 (Conn. Ag. August 12, 1997) and 2009 WL 4049026 (Conn. Ag. November 20, 2009), the amendment was part of a comprehensive overhaul of the juvenile justice system in Connecticut. *See* 38 H.R. Proc. 16, 1995 Sess., p. 5656. Among its key provisions were changes in the confidentiality requirements of the former statutes, which effectively prevented victims, court officials, agencies providing services to delinquents, and the public from obtaining records of proceedings concerning delinquent children, and an increased emphasis on alternative sanctions for juveniles based on professional risk assessments, home monitoring, and community based facilities. The extensive legislative history surrounding passage of the Act reflects frustration with the severe problems caused by the former rigid and virtually all encompassing practice of sealing the records of delinquent children, and making them unavailable even to those with a legitimate interest in them. *See, e.g.,* 38 H.R. Proc., Pt. 8, 1995 Sess., pp. 2938-39 (remarks of Rep. Lawlor); 38 Proc., Pt., 11, 1995 Ssess. pp. 3698-3703 (remarks of Sen. Upson).

We reach a different conclusion, however, with regard to a fingerprint record on file with the Unit that was not involving a juvenile delinquency proceeding. To the extent the juvenile fingerprint record on file is not a record of

² Subsection (d) does provide that records disclosed pursuant to this subsection “shall not be further disclosed, except that information contained in such records may be disclosed in connection with bail or sentencing reports in open court during criminal proceedings involving the subject of such information.”

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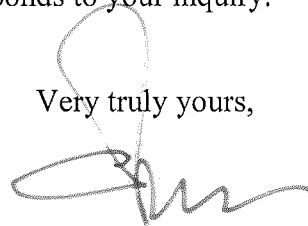
a case of a juvenile matter involving a delinquency proceeding, the statute sets out a different procedure for disclosure to law enforcement conducting a criminal investigation. Conn. Gen. Stat. § 46b-124(b) provides:

All records of cases of juvenile matters, as provided in section 46b-121, *except delinquency proceedings*, or any part thereof, and all records of appeals from probate brought to the superior court for juvenile matters pursuant to section 45a-186, shall be confidential and for the use of the court in juvenile matters, and open to inspection or disclosure to any third party, including bona fide researchers commissioned by a state agency, only upon order of the Superior Court... (emphasis added).

The statute goes on to provide specific exceptions to the confidentiality provision of section (b); however, there is no exception that authorizes the disclosure of a fingerprint record of a case of a juvenile matter to law enforcement conducting a criminal investigation. Rather, the statute requires a court order to disclose a record of a case of a juvenile matter that does not involve a delinquency proceeding, including a fingerprint record, to law enforcement officials, even those conducting a legitimate criminal investigation. The purpose of the 1995 legislation, outlined above, supports the different treatment between a juvenile fingerprint record involving a delinquency proceeding and a fingerprint record not involving such a proceeding. As noted, a key aim of the legislation was to facilitate the exchange of relevant information involving juvenile delinquents, not all juveniles.

We trust the foregoing adequately responds to your inquiry.

Very truly yours,



GEORGE JEPSEN
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