



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK
~~ATTORNEY GENERAL~~ OPINION NO. 85-11

(501) 371-2007

January 21, 1985

Dr. William H. Townsend
State Representative
1304 Wright Avenue
Little Rock, AR 72206

RE: Release of Information by Juvenile Court to Adult
Courts

Dear Dr. Townsend:

You have requested an opinion regarding the following
question:

Is Juvenile Court required to release information to
adult courts concerning an adult defendant's history of
delinquency (charges and dispositions in Juvenile
Court), for the purpose of probation and/or pre-sentence
reports?

Specifically your concern is whether there is a conflict
between Ark. Stats. Ann. §45-444 and §41-804(2). As you
stated in your letter, §45-444, which is contained in the
Juvenile Code, prohibits evidence introduced in a juvenile
court proceeding from being admitted in any other proceeding
unless it is permissible under the Rules of Evidence.

On the other hand, §41-804(2), part of the criminal code,
requires that the pre-sentencing report which is submitted
to the trial judge include information regarding the
defendant's prior delinquent acts.

The two sections are not in conflict.

The juvenile code section refers only to evidence in a
proceeding which would determine civil or criminal liability
while the pre-sentencing report is submitted to the Court
after the defendant has been found guilty. The report is
not submitted to a jury if they are the sentencing entity,
and the Arkansas Supreme Court has ruled that such informa-
tion would not be proper to submit to the jury even if the
defendant wanted it presented to them. Fields v. State, 255
Ark. 562, 502 S.W.2d 480 (1974).

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It is true that much confusion surrounds the issue of confidentiality of juvenile court records partly because by statute the identify of the juvenile is protected, §45-443, and the juvenile referee can conduct closed hearings. §45-442. In addition §45-441.1 provides for expungement of the record in certain cases. However, according to the criminal code, expungement does not mean that records are destroyed, and by law they are still available to judicial officers. §43-1231. Nowhere in the juvenile code is there a prohibition against juvenile court release of such information to adult court authorities.

Therefore, under present Arkansas law, the juvenile court must release court records upon request for the purposes outlined in §41-804(2).

The foregoing opinion which I hereby approve was prepared by Assistant Attorney General, Elizabeth Dowling.

Sincerely,


STEVE CLARK
Attorney General

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