



OLR RESEARCH REPORT

October 15, 2013

2013-R-0406

INTERVIEWING MINORS AND RESTRICTIONS ON DISCLOSURE OF JUVENILE RECORDS

By: Christopher Reinhart, Chief Attorney

You asked about (1) statutory protections for minors being interviewed by law enforcement officials after a crime and (2) restrictions on disclosure of records related to juvenile offenders.

SUMMARY

The law requires police officers to advise minors of certain rights and, in some instances, have a parent or guardian present during the minor's interview in order for the minor's statement to be admissible in a delinquency proceeding involving the minor. The law sets different admissibility rules depending on whether the juvenile is under age 16 or age 16 or 17. We did not find any other statutory provisions governing minors' interviews.

Under the Freedom of Information Act (FOIA), agencies can withhold juvenile arrest records from disclosure under the exemption for law enforcement investigatory records if the records are not otherwise available to the public. Other laws restrict the disclosure of records involved in juvenile court delinquency proceedings. With certain exceptions, the law requires the court to keep these records confidential, including law enforcement records used in the proceeding. Generally, the court cannot make these records available to the public but victims must have the same access to records as if the case were in adult court.

POLICE INTERVIEWING MINORS

The law does not establish conditions on interviewing minors after a crime but it does set conditions governing when a minor's statement is inadmissible in a delinquency proceeding involving the minor. The law sets different admissibility rules depending on whether the juvenile is under age 16 or age 16 or 17.

Under Age 16

The law makes a written or oral admission, confession, or statement by a child under age 16 to a police officer or juvenile court official inadmissible in a delinquency proceeding involving the child unless the child makes the statement:

1. in a parent's or guardian's presence and
2. after the officer or official advises the parent or guardian and child (a) of the child's right to counsel, have counsel appointed if unable to afford one, and refuse to make statements and (b) that statements may be used as evidence against the child ([CGS § 46b-137\(a\)](#)).

Age 16 or 17

For 16- and 17-year olds, written or oral admissions, confessions, and statements made to a police officer or juvenile court official are inadmissible in a delinquency proceeding involving the child unless the:

1. police or juvenile court official makes reasonable efforts to contact a parent or guardian and
2. child is advised (a) of the right to contact and have a parent or guardian present during an interview, retain counsel, have counsel appointed if unable to afford one, and refuse to make statements and (b) that any statement may be used as evidence against the child.

When deciding whether to admit a statement, the law requires the court to consider all of the circumstances at the time a child age 16 or 17 made the statement. The court must consider:

1. the child's age, experience, education, background, and intelligence;

2. whether he or she had the capacity to understand the (a) advice concerning rights and warnings he or she was given, (b) nature of the constitutional privilege against self-incrimination, and (c) consequences of waiving his or her rights or privileges;
3. whether the child had the opportunity to speak with a parent, guardian, or other suitable person before making the admission, confession, or statement; and
4. the circumstances surrounding the making of the admission, confession, or statement, including (a) when and where it was made; (b) the reasonableness of proceeding, or the need to proceed, without a parent or guardian present; and (c) the reasonableness of efforts by the police or juvenile court official to attempt to contact a parent or guardian.

These admissibility rules do not apply to statements made to a police officer in connection with a case transferred to juvenile court from the youthful offender docket, adult criminal docket, or docket for motor vehicle matters. These statements are subject to the general court rules governing admissibility of evidence ([CGS § 46b-137\(b\) and \(c\)](#)).

JUVENILE OFFENDER RECORDS

FOIA

FOIA allows agencies to withhold juvenile arrest records from disclosure if they are law enforcement investigatory records that are not otherwise available to the public. Juvenile arrest records are records compiled for law enforcement purposes, including investigatory files ([CGS § 1-210\(b\)\(3\)](#)).

Records in Juvenile Court Proceedings

The law also limits disclosure of records used in juvenile court proceedings. These records include:

1. court records;
2. records maintained by the Court Support Services Division or an organization or agency under contract with the Judicial Branch to provide services to juveniles;
3. law enforcement records (such as fingerprints, photos, and physical descriptions); and

4. medical, psychological, psychiatric, and social welfare studies and reports by juvenile probation officers, public or private institutions, social agencies, and clinics.

The law generally makes all of these records confidential when they are related to delinquency proceedings but allows their use by:

1. the court;
2. Judicial Branch employees who need them when performing their duties;
3. employees and authorized agents of state or federal agencies involved in the delinquency proceeding, providing services to the child, or designing and delivering treatment programs to juveniles;
4. attorneys representing a child in any proceeding, if the records are relevant;
5. the child's parents or guardian, until the child reaches the age of majority;
6. the subject of the record, if he or she has reached the age of majority;
7. law enforcement and prosecutorial officials conducting legitimate criminal investigations;
8. state or federal agencies providing services related to collecting money due or funding to support a juvenile's service needs (disclosure is limited to necessary information);
9. Department of Correction employees and Board of Pardons and Paroles members and employees to perform their duties, when the person has been convicted of a crime in adult court and the records are relevant to certain treatment and release assessments;
10. anyone who demonstrates a legitimate interest in a record, if authorized by a court order; and
11. victims, who must have the same access to information as if the case were in adult court.

Those who receive records may not disclose them further. A court can authorize further disclosure by a victim or someone who has a legitimate interest in a record. The records can also be used in bail and sentencing reports in open court.

Other provisions apply in specific circumstances. For example, the courts report certain delinquency convictions for motor vehicle offenses to the Department of Motor Vehicles. Other confidentiality provisions govern juvenile records that are not related to a delinquency proceeding ([CGS § 46b-124](#)).

The law also requires automatic erasure of police and juvenile court records 13 months after a prosecutor declines to prosecute a case (nolle prosequi) or a delinquency count is dismissed without prejudice (CGS § 46b-133a). A person can also apply to court for erasure of police and court records from a delinquency conviction after a certain period of time passes without additional delinquency or adult charges or convictions ([CGS § 46b-146](#)).

CR:ts