02-005

ADMINISTRATION OF GOVERNMENT: GOVERNMENT DATA COLLECTION AND DISSEMINATION PRACTICES ACT.

Disclosure by spouse abuse shelter to law-enforcement officials of presence of resident under described circumstances.

The Honorable Ward L. Armstrong
Member, House of Delegates
May 29, 2002

Issue Presented

You inquire concerning the circumstances under which Citizens Against Family Violence ("CAFV") may provide law-enforcement officials with information regarding the identity and presence of residents\(^1\) at the spouse abuse shelter operated by CAFV. Specifically, you ask whether CAFV may disclose the referenced information in the following circumstances: (1) the police possess and wish to serve (a) a criminal warrant, (b) a civil warrant, or (c) a subpoena; and (2) the police do not have a warrant but nevertheless wish to question the resident in connection with an ongoing criminal investigation.

Response

It is my opinion that CAFV may disclose the identity and presence of a resident to a law-enforcement official under any of the circumstances described above.

Facts

You relate that CAFV is a private, nonprofit spouse abuse shelter that receives temporary assistance for needy families funds as a portion of its operating budget.\(^2\) You state that the residents at the shelter have been involved in domestic violence disputes and, therefore, are frequently involved with the courts and law-enforcement officials.

Applicable Law and Discussion
Section 63.1-209(A) of the Code of Virginia provides that "[t]he records [and] information … of the Department of Social Services … concerning social services to or on behalf of individuals shall be confidential information, provided that … such records [and] information … may be disclosed to any person having a legitimate interest in accordance with state and federal law and regulation." For purposes of § 63.1-209, the term "social services" includes "domestic violence services." Under state law, a law-enforcement officer charged with serving a criminal or civil warrant or a subpoena, or seeking to investigate a crime in the course of his official duties, has a legitimate interest in locating the person to be served or interviewed, and thus has a legitimate interest in knowing whether such person is present or likely to be present at a spouse abuse shelter. Accordingly, absent some state or federal law restricting disclosure, CAFV personnel may provide law-enforcement officials, upon request, with information reasonably calculated to assist them in locating the specific individual they are seeking. Such information would include whether the individual is or was, or is likely to be, present at the shelter. This authorization would not, however, authorize the shelter to make a wholesale disclosure to law enforcement of the identity of persons located at the shelter but not specifically sought by law enforcement.

You also state that information collected about families receiving temporary assistance for needy families funded services may be protected under the Government Data Collection and Dissemination Practices Act, §§ 2.2-3800 through 2.2-3809. The Act applies to "[r]ecordkeeping agencies of the Commonwealth." CAFV is not an "agency" as that term is defined in § 2.2-3801(6). Additionally, the Supreme Court of Virginia has held that "the Act does not render personal information confidential. Indeed, the Act does not generally prohibit the dissemination of information. Instead, the enactment requires certain procedural steps[7] … to be taken in the collection, maintenance, use and dissemination of such data." The Act does not prevent the dissemination of information pursuant to a legitimate official request.

**Conclusion**

Accordingly, it is my opinion that CAFV may disclose the identity and presence of a resident to law-enforcement officials under the described circumstances.

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1Where the term "resident(s)" appears in this opinion, it shall mean former or current resident(s).


5Compare 42 U.S.C.A. § 608(a)(9)(B) (West Supp. 2001). While § 608(a)(9)(B) deals with confidentiality issues, it does not impose any confidentiality requirement on the states. Instead, it provides that, "if" a state establishes a confidentiality policy, such policy may not go so far as to prevent the disclosure of a recipient's current address when sought by law enforcement in the circumstances described in the statute. The scope of the exception provided in § 63.1-209 is broader than the exception required by federal law.


7These steps include "[c]ollect[ing], maintain[ing], use[ing], and disseminat[ing] only that personal information permitted or required by law to be so collected, maintained, used, or disseminated, or necessary to accomplish a proper purpose of the agency;" "[e]stablish[ing] categories for maintaining personal information to operate in conjunction with confidentiality requirements and access controls;" "[m]aintain[ing] information in the system with accuracy, completeness, timeliness, and pertinence as necessary to ensure fairness in determinations relating to a data subject;" "[m]aintain[ing] a list of all persons or organizations having regular access to personal information in the information system;" "[e]stablish[ing] appropriate safeguards to secure the system from any reasonably foreseeable threat to its security; and" "[t]ak[ing] affirmative action to establish rules of conduct and inform each person involved in the design, development, operation, or maintenance of the system, or the collection or use of any personal information contained therein, about all the requirements of [the Government Data Collection and Dissemination Practices Act], the rules and procedures, including penalties for noncompliance, of the agency designed to assure compliance with such requirements." Va. Code Ann. § 2.2-3803(A)(1), (3), (4), (6), (9), (8) (LexisNexis Repl. Vol. 2001).


9Id. at 449, 297 S.E.2d at 689.