



STATE OF FLORIDA

OFFICE OF ATTORNEY GENERAL

ROBERT A. BUTTERWORTH

April 4, 1991

Mr. James G. Sisco
County Attorney
St. Johns County
Post Office Box 1533
St. Augustine, Florida 32085-1533

Dear Mr. Sisco:

You have asked substantially the following questions:

1. May the county library supply records of overdue books and unpaid library fines to a collection agency for retrieval of the books and collection of the fines?
2. May the county library file suit to recover overdue books and unpaid fines?
3. May the county library supply the names and addresses of persons who have checked out books to the county sheriff, when those books may be linked to criminal activity?

In sum:

Section 257.261, F.S., makes library registration and circulation records confidential and prohibits their release in any manner without a proper court order.

You state that you have advised the county librarian that s. 257.261, F.S., allows the release of library registration and circulation records only upon proper judicial order. The county commission, however, has requested that you contact this office for an opinion.

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Section 257.261, F.S., provides:

All registration and circulation records of every public library, except statistical reports of registration and circulation, shall be confidential and exempt from the provisions of s. 119.07(1). Except in accordance with proper judicial order, no person shall make known in any manner any information contained in such records. As used in this section, the term "registration records" includes any information which a library requires a patron to provide in order to become eligible to borrow books and other materials, and the term "circulation records" includes all information which identifies the patrons borrowing particular books and other materials. Any person violating the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. . . . (e.s.)

The foregoing provisions in s. 257.261, F.S., clearly prohibit the release of any information contained in registration or circulation records, absent a proper court order.¹ Furthermore, there are criminal sanctions against any person who makes known in any manner any information contained in such records.

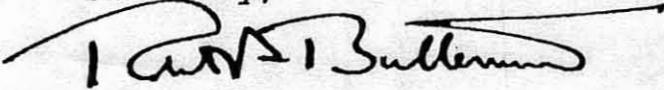
This office consistently has taken the position that where a statute makes certain information confidential, with no provision for its release such that its confidential status will be maintained, such information may not and is not required to be released to anyone other than persons or entities designated in the statute.² Section 257.261, F.S., allows the release of information contained in registration and circulation records only upon a court order. Where the Legislature has prescribed the manner in which a thing is to be done, it is in effect a prohibition against its being done in any other way.³ I have not found, nor have you provided, any statutory provision⁴ otherwise allowing access to these confidential records.

Accordingly, in the absence of a court order, s. 257.261, F.S., does not allow the release of library registration and circulation records to a collection agency, the filing of suit such that the identity of patrons or registration and circulation records are divulged, or the release to the sheriff of the identity of a

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person who has checked out a particular book which has been linked to criminal activity. I trust these informal comments will be of assistance to you in resolving this matter.

Sincerely,



Robert A. Butterworth
Attorney General

RAB/tgk

¹ This office has been advised by the Department of State that it has reached a similar conclusion in determining whether the Florida State Archives is a public library for purposes of s. 257.261, F.S.

² See, AGO's 90-36 (Department of Professional Regulation not required to release public records made confidential by statute, absent statutory provision allowing requesting party access to such records) and 89-12 (Department of Professional Regulation prohibited from releasing patient records or information identifying a patient by name to law enforcement agency or other regulatory agency). Cf., s. 213.053, F.S. (1990 Supp.), providing for the confidentiality of tax information and for its release to specified individuals under certain conditions and s. 455.241, F.S. (1990 Supp.), providing for the confidentiality of patient medical records, except upon written authorization of the patient or in a civil or criminal proceeding upon issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or his legal representative.

³ See, *Dobbs v. Sea Isle Hotel*, 56 So.2d 341 (Fla. 1952), and *Alsop v. Pierce*, 19 So.2d 799, 805 (Fla. 1944).

⁴ Cf., s. 213.27(1), F.S. (1990 Supp.), allowing the Department of Revenue to share confidential information pursuant to a contract necessary for the collection of delinquent taxes by a debt collection agency, and s. 39.045(5), F.S. (1990 Supp.), making juvenile records confidential and prohibiting their disclosure to anyone other than authorized personnel, those entitled to receive the information pursuant to the statute, or by order of court.