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OPINION	:	No. 79-711
	:	
of	:	November 21, 1979
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SUBJECT: ACCESS TO FILES—In the performance of his duties of enforcing the child support obligations of absent parents, a district attorney has the right of full access to those files in his county concerning aid to families with dependent children which are necessary to enable him to perform such duties.

The Honorable Louis P. Bergna, District Attorney of Santa Clara County, has requested an opinion on the following question:

Does a district attorney in the performance of his duties of enforcing child support obligations of absent parents, pursuant to title IV-D of the Social Security Act, have the right of full access to the files in his county concerning aid to families with dependent children?

CONCLUSION

In the performance of his duties of enforcing child support obligations of absent parents, pursuant to title IV-D of the Social Security Act, a district attorney has the right of full access to those files in his county concerning aid to families with dependent children which are necessary to enable him to perform such IV-D duties.

ANALYSIS

Pursuant to title IV-D of the Social Security Act (42 U.S.C. §§ 651–660), California has established a program for enforcing the child support obligations of absent parents, for locating such parents, and for determining paternity. (42 U.S.C. § 651; Welf. & Inst. Code¹ §§ 11475, 11478.5; see *In re Marriage of Shore* (1977) 71 Cal. App. 3d 290, 295.) This is the so-called “IV-D program.” (See 45 C.F.R. § 302.12(a); 62 Ops. Cal. Atty. Gen. 321, 322 (1979).)

Under this program a unit in the district attorney’s office in each county is assigned the responsibility for enforcing the absent parents’ support obligations. As provided in section 11475.1:

“Each county shall maintain a single organizational unit located in the office of the district attorney which shall have responsibility for promptly and effectively enforcing the obligation of parents to support their children and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child is receiving public assistance and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance. . . .

“Nothing herein shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with such departments approved by the State Department of Social Services.”

(See also § 11476.)

Pursuant to his responsibilities in the implementation of the IV-D program, the district attorney is required to pay the funds he has collected from an absent parent to the county welfare department when the family is receiving aid to families with dependent children or “AFDC” (§ 11457; 42 U.S.C. § 657; 45 C.F.R. § 302.32 (a)), in order to reimburse the public agencies for the aid provided. (42 U.S.C. § 657(b) (1); *In re Marriage of Shore, supra*, 71 Cal. App. 3d at pp. 298–299.)

¹ Hereafter all section references are to the Welfare and Institutions Code unless otherwise indicated.

When the family is not receiving AFDC, the funds collected are paid by the district attorney directly to the family. (§ 11476(1); 42 U.S.C. § 657(c); 45 C.F.R. § 302.51(e).)

Thus an examination by the district attorney of the files pertinent to a family's receipt of AFDC becomes relevant in the course of the execution of the district attorney's IV-D duties, since the correct disbursement of the funds he has collected from absent parents is determined by the family's AFDC status. (See § 11457.)

The question presented is whether a district attorney in connection with his LV-D duties has the right of full access to the files which contain such AFDC status information.

This question arises because all records concerning any individual relating to federally funded welfare are rendered confidential by section 10850. This section provides in pertinent part:

“(a) Except as otherwise provided in this section, all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of such program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such program. The disclosure of any information which identifies by name or address any applicant for or recipient of such grants-in-aid to any committee or legislative body is prohibited, except as provided in subdivision (b).

“(b) Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services or the State Department of Health Services, and such lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services or the State Department of Health Services. Such lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for such purposes, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient.

“However, this section shall not prohibit the furnishing of such information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services.

“(c) . . .

“(d) The State Department of Social Services and the State Department of Health Services may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the laws relating to public social services under their jurisdiction. The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, which are engaged in planning, providing or securing social services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided, that such research will not result in the disclosure of the identity of applicants for or recipients of public social services.

“(e) Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

“(f) The provisions of this section shall be operative only to the extent permitted by federal law.” (Emphasis added.)

Thus while the statute renders the specified information “confidential,” the examination of restricted information under this statute is permissible if it is for purposes directly connected with the administration of “program[s]” of “public social services” or with “verifying eligibility” for such services. (*In re Jeannie Q.* (1973) 32 Cal. App. 3d 288, 305; Dept. of Social Services, Operations Manual § 19-004.) It must therefore be determined whether the examination of AFDC files by the district attorney pursuant to his duties under the IV-D program is an examination of records ‘for . . . [a] purpose . . . directly connected with the administration of such program’ within the meaning of section 10850.

It is initially noted that the term “public social services” as used in section 10850 is defined in section 10051 as follows:

“Public social services’ means those activities and functions of state and local government administered or supervised by the department or the State Department of Health Services and involved in providing aid or services or both, including health care services and medical assistance, to those people of the state who, because of their economic circumstances or social condition, are in need thereof and may benefit thereby.”

Section 10052 defines the term “aid” as meaning “financial assistance provided to or in behalf of needy persons under the terms of . . . division [9],[²] including direct money payments and vendor payments. . . .” Under the AFDC program, financial aid is granted to families with children who are in need because they are deprived of parental support. (See §§ 11250, 11450.) Thus the AFDC program in providing financial aid to “needy persons” constitutes a “public social service” as defined by section 10051 and as used in section 10850.

Since, as noted, the law requires money recovered from absent parents to be applied to the reimbursement of AFDC grants (42 U.S.C. § 657(b) (1)), it can be seen that the recovery of support payments from absent parents and the application, when required, of such payments to the reimbursement of AFDC grants is an integral component of the AFDC funding process.³ Indeed, federal law expressly incorporates the IV-D program as a whole into the overall AFDC system. As provided, in 42 U.S.C. section 602:

“(a) A State plan for aid and services to needy families with children must. . . .

“.....

“(27) provide, that the State has in effect a plan approved under part D [title IV-D] and operate a child support program in conformity with such plan;. . . .”

² Division 9 includes sections 11200–11500, which contain the provisions relating to AFDC and the state program for securing child support from absent parents.

³ See 42 U.S.C. § 602(a) (26) (A), requiring that state AFDC programs provide, as a condition for receiving aid, that the recipient must assign to the state the right to support from the absent parent. Section 11477 was enacted in California in conformity with this federal requirement. (*In re Marriage of Shore, supra*, 71 Cal. App. 3d at p. 295.)

(California has elected to comply with this federal AFDC plan. *Barnham v. Woods* (1977) 70 Cal. App. 3d 667, 670 fn. 1,673; 62 Ops. Cal. Atty. Gen. 494 (#79-517 (1979).)

Thus in collecting support payments from absent parents and making the proper disbursement of such funds pursuant to his duties under the IV-D program, the district attorney is directly connected with the administering of a “program of public social services.”

In order to make the proper disbursements of support funds as required by the program, the district attorney, as noted, must examine the file pertaining to the granting of AFDC so he can determine whether or not the family in question is receiving AFDC assistance. It therefore follows that the examination of such AFDC information in order to enable the district attorney to make its determination is an examination of information for a “purpose . . . directly connected with the administration of . . . [public social services].” Thus an examination by the district attorney of the AFDC files of a family on whose behalf he has collected support payments is permitted under section 10850.

Confirmation of this interpretation of section 10850 is found in the regulations issued by the State Department of Social Services to implement section 10850 (see § 10850(d) authorizing such regulations). Among other things such regulations provide:

“.1 General Rule

“Confidential information may be released without the consent of the applicant/recipient, only for purposes directly connected with the administration of public social services. . . .

. . .

“.3 Public Officials

“Certain public officials, and their duly appointed agents, and deputies, are entitled to examine confidential information. The right of public officials, including law enforcement personnel, to examine public assistance records does not exist if the request is for a purpose not connected with the administration of the public social service programs. . . .

“District Attorney or County Counsel

“In the administration of aid, it is necessary to disclose information to these offices when they are conducting investigations, prosecutions, criminal or

civil proceedings directly connected to public social services *including child support services* and the location of families in which the caretaker has abducted or kidnapped the aided child (ren). . . .”

(Dept. of Social Services, Operations Manual § 19–004; emphasis added.)

Thus the Department of Social Services, the agency charged with the overall administration of public social services in the state (§ 10600), construes section 10850 to allow for access to confidential information by district attorneys pursuant to their activities directly connected to child support (i.e., IV-D) services. See *Nipper v. California Auto. Assigned Risk Plan* (1977) 19 Cal. 3d 35, at p. 45, where the Supreme Court stated:

“We have generally accorded respect to administrative interpretations of a law and, unless clearly erroneous, have deemed them significant factors in ascertaining statutory meaning and purpose.”

Further, this interpretation of section 10850 is in conformity with federal law which expressly requires the state AFDC plan to have a statute which restricts the use of welfare information “to purposes directly connected with: (A) the administration of [among other programs] . . . the plan or program of the State under title . . . IV-D. . . .” (45 C.F.R. § 205.50(a) (1) (i) (A); emphasis added; see also 42 U.S.C. § 602 (a) (9) (A).) Since the Legislature intended section 10850 to be in conformity with federal law (see § 10850(f); see also Stats. 1975, ch. 924, § 24, p. 2041; *Jonon v. Superior Court* (1979) 93 Cal. App. 3d 683, 694; 62 Ops. Cal. Atty. Gen. 494 (#79–517) *supra*; 60 Ops. Cal. Atty. Gen. 314, 318 fn. 4 (1977)), it can be concluded that section 10850 was intended to permit access to information for “purposes directly connected with” the IV-D program.⁴

⁴ We note that prior to its amendment in 1975 (Stats. 1975, ch. 924, § 1.5, p. 2031) section 10850 expressly referred to the district attorney’s right of access to the specified welfare records. In that regard the section provided that an agency could make “the disbursement records available to the *district attorney* upon his request.” (Emphasis added.) The section further provided: “The information thus obtained shall be made available to the *district attorney* for the official conduct of his office and shall not be used for any other purpose.” (Stats. 1973, ch. 1212, § 387, p. 2859; emphasis added.) Thus under this prior version of section 10850, the district attorney could acquire welfare disbursement records for purposes related to *any* of his official duties and not just those “directly connected with the administration of . . . [a public social service] program.” The exclusion of the direct reference to the district attorney in the 1975 amendment to section 10850 thus had the effect of placing the district attorney in the position of any “other public agenc[y]” whose access to welfare records is limited to those relating to “purposes directly connected with the administration of public social services. . . .”

It has been suggested that access to the AFDC files by the district attorney is unnecessary because the county welfare department can examine the files and then inform the district attorney about the AFDC assistance status of any particular family.

In evaluating this suggestion, we again refer to the fact that the statute specifically designates a unit of the district attorney's office as the "single" entity responsible for enforcing the child support obligations of parents (§ 11475.1). Further, as noted, the statute charges the district attorney with the responsibility for properly disbursing the funds collected pursuant to the enforcement of such obligations to either the welfare department or to the family, as the law directs. (§§ 11457, 11476.)

Thus in order to fulfill his duty and responsibility to disburse the collected support payments to the proper recipient, not only must the district attorney examine the pertinent AFDC files to verify the accuracy of relevant information that has been furnished to him, he must also examine such files to determine if there is any information which is relevant and which might otherwise not have been brought to his attention.

This process of selecting out such relevant information would, of necessity, require an examination of both relevant and irrelevant information in the files. It is thus evident that confining this selection function to another agency and thereby restricting the district attorney's access to pertinent AFDC files, could potentially deprive the district attorney of the information necessary to enable him to effectively discharge those responsibilities, explicitly set forth in the statutes, for the proper disbursement of the collected support funds. As stated by the Supreme Court in *Dickey v. Raisin Proration Zone No. 1* (1944) 24 Cal. 2d 796, 810: Where "[t]he legislature clearly set forth and enacted a ground plan or design for its accomplishment; the implemental portions of the act must be construed so as to achieve its object." (See also *Cal. Toll Bridge Authority v. Kuchel* (1952) 40 Cal. 2d 43, 53; *Rushing v. Powell* (1976) 61 Cal. App. 3d 597, 604.)

We therefore conclude that by virtue of his statutory responsibilities under the IV-D program and in light of the fact that section 10850 permits examination of files for a "purpose . . . directly connected with the administration of . . . [a public social service] program," (see *In re Jeannie Q.*, *supra*, 32 Cal. App. 3d at 305), a district attorney has the right of full access to those AFDC files in his county which are necessary to enable him to properly discharge his duties under the IV-D program.
