

**LETTER OPINION**  
**98-L-194**

November 23, 1998

Mr. Lyle V. Gallagher  
Director  
State Radio Communications  
PO Box 5511  
Bismarck, ND 58502-5511

Dear Mr. Gallagher:

Thank you for your letter requesting an opinion on how and when information may be released by 911 public service answering points under N.D.C.C. § 57-40.6-07.

The limitation on disclosure of names, addresses, and telephone numbers provided to a 911 public service answering point by any telecommunications company providing emergency 911 service is located in N.D.C.C. § 57-40.6-07:

Names, addresses, and telephone numbers provided to a 911 public service answering point under section 57-40.6-06 are private data and may be used only for verifying the location or identity, or both, for response purposes only, of a person calling a 911 answering point for emergency help. The information furnished may not be used or disclosed by the public service answering point or its agents or employees for any other purpose except under a court order.

This language renders the names, addresses, and telephone numbers "confidential." See N.D.C.C. § 44-04-17.1(3) (a confidential record is one that is expressly declared confidential or prohibited from being open to the public); 1994 N.D. Op. Att'y Gen. L-194. N.D.C.C. § 12.1-13-01 makes it a class C felony for a public servant to knowingly disclose confidential information acquired as a public servant, which is defined as information made available to the government under a governmental assurance of confidence as provided by statute.

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Unless another section of law permits disclosure, names, addresses, and telephone numbers provided to a 911 public service answering point pursuant to N.D.C.C. § 57-40.6-06 may not be disclosed except for responding to a call for emergency help unless a court orders the disclosure. N.D.C.C. § 44-04-18.10(4) states that unless otherwise prohibited by federal law, records of a public entity which are otherwise confidential may be disclosed to any public entity for law enforcement purposes or the collection of debts owed to a public entity. This provision appears to provide an exception to the nondisclosure requirements for confidential information where another law makes the information confidential.

The prohibition contained in N.D.C.C. § 57-40.6-07 that the information "may not be used or disclosed by the public service answering point or its agents or employees for any other purpose except under a court order" appears to conflict with the authority in N.D.C.C. § 44-04-18.10(4) allowing release for law enforcement purposes or debt collection. Therefore, although federal law does not prohibit disclosure of information provided to a public service answering point (Electronic Communications Privacy Act of 1986, 18 U.S.C. § 2703(c)(1)(B)(iii)), North Dakota law itself may produce a conflict to be resolved concerning disclosure of the 911 information.

In an opinion issued today, which is enclosed, I conclude that a statute declaring specific records closed or confidential does not conflict with N.D.C.C. § 44-04-18.10(4), and will not prohibit disclosure under that subsection, unless the statute goes further and explains how specific closed or confidential records may be shared with other public entities. 1998 N.D. Op. Att'y Gen. 139, 143. This conclusion is based, in part, on the fact that N.D.C.C. § 44-04-18.10(4) specifically applies to "records which are otherwise closed or confidential" under other statutes. Id.

Looking specifically at N.D.C.C. § 57-40.6-07, it prohibits disclosure of the records except under court order, which is an exception that applies to all confidential records. See N.D.C.C. § 44-04-18.11(2). It also limits the use of the names, addresses, and telephone numbers to the purposes for which the records are received. In my opinion, these two restrictions are not unique, but are restrictions that are common to many confidentiality statutes and therefore do not conflict with the general authority in N.D.C.C. § 44-04-18.10(4) to share closed or confidential records for purposes of law enforcement or debt collection. Therefore, the records may be shared as provided in N.D.C.C. § 44-04-18.10(4).

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The disclosure of the names, addresses, and telephone numbers is also authorized for child support collection purposes under N.D.C.C. §§ 50-09-08(4) and 50-09-08.2(1).

In conclusion, any disclosure of the names, addresses, and telephone numbers that are confidential under N.D.C.C. § 57-40.6-07 would be a violation of N.D.C.C. § 12.1-13-01 unless the disclosure is made for purposes of law enforcement or debt collection under N.D.C.C. § 44-04-18.10(4), for child support purposes under N.D.C.C. §§ 50-09-08(4) or 50-09-08.2(1), pursuant to a court order, or for the purpose of responding to a call for emergency help.

Sincerely,

Heidi Heitkamp  
Attorney General

Enclosure  
jcf/vkk