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June 12, 2001

OFFICIAL OPINION 2001-3

The Honorable Richard D. Bray
State Senator
210 East Morgan Street
Martinsville, Indiana 46151-6814

Re: Accessing 911 Database.

Dear Senator Bray:

On March 12, 2001, you requested, a legal opinion on the following issues:

1. Can a police department or similar agency which has access to 911 database access the information in the database if no incoming 911 call is made or no emergency exists at a location?
2. Can such information be used by police agencies for criminal investigations or locating persons who may be wanted for criminal investigation or for arrest on criminal charges?
3. Who can access this information and under what circumstances other than administrative updates of optional information can this information be used?

BRIEF ANSWER

Absent an emergency or an incoming 911 call, the police or a similar agency may not access the 911 database or use the information in that database for criminal investigations or for arrests on criminal charges. Conversely, if there *is* an emergency, a 911 call is often the first indication that a crime has taken place. Under those circumstances police authorities may obviously access that information. In addition, the only persons who should have access to the database are those who maintain it and those who need the information to respond to emergencies. Anyone who releases customer data, other than telephone location or service user (customer), through the 911 system without a court order in a non-emergency situation may be found guilty of a class A misdemeanor.

LEGAL ANALYSIS

Indiana law has very clear proscriptions on how 911 data may be used. Indiana Code § 36-8-16-16(a) states:

Service suppliers shall provide upon request the necessary customer data to implement an enhanced emergency telephone system. **Customer data** provided to a county or municipality for the purpose of implementing or updating an enhanced emergency telephone system **may be used only to identify the telephone location or service user, or both, and may not be used or disclosed by the county or municipality, or its agents or employees, for any other purpose unless the data is used or disclosed under a court order.** A person who violates this subsection commits a Class A misdemeanor.

(Emphasis added.) Indiana Code § 36-8-16-16(b) states that this customer data includes the address of service, the class of service, and a designation of listed, unlisted, or nonpublished.

Indiana Code § 36-8-16-16 prohibits the disclosure of customer data for purposes other than identification of the service location (address) or the service user (customer). This means that dispatchers can use this customer data to locate the address or customer. Disclosure for any other purpose may result in a Class A misdemeanor.

Indiana Code § 36-8-16-17(a) details to whom a telephone number may be released and under what circumstances:

A [dispatch] unit may not release a telephone number required to be provided under this section to any person for a purpose other than including the number in the enhanced emergency telephone system data base or providing the number to permit a response to a police, fire, medical, or other emergency situation.

This section prohibits disclosure of telephone numbers of customers for any reason other than an emergency situation or for inclusion in an enhanced telephone system database. This means that no one may disclose the phone numbers unless it is an emergency.

CONCLUSION

Under the Indiana Code, no one may use 911 data for purposes other than determining a telephone location or service user in an emergency, unless a court order is in place. In addition, no one may disclose phone numbers for purposes other than inclusion in an emergency 911 data base or in the case of an emergency situation. Disclosure under other circumstances may constitute a Class A misdemeanor.

Sincerely,

Stephen Carter
Indiana Attorney General