

GARY K. NELSON, THE ATTORNEY GENERAL

STATE CAPITOL
PHOENIX, ARIZONA

August 23, 1968

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DEPARTMENT OF LAW OPINION NO. 68-19 (R-102)

REQUESTED BY: COLONEL JAMES J. HEGARTY, SUPERINTENDENT,
ARIZONA HIGHWAY PATROL

QUESTION: In the administration of § 41-1650, A.R.S., as contained in Chapter 209 of the Laws of 1968, Second Regular Session, may the Superintendent of the Arizona Highway Patrol limit the dissemination of data to bona fide police agencies?

ANSWER: See body of opinion.

In A.R.S. § 41-1650 it provides in paragraph (B) that:

"The criminal identification section shall, when requested by the sheriff or a constable of a county, the chief of police of a city or town marshal of an incorporated city or town, furnish him, and other peace officers throughout the state, assistance in promoting greater efficiency in detecting and apprehending criminals and enforcing the criminal laws of the state."

By the well-known expression "expressio unius est exclusio alterius" the Legislature, by limiting those officials to whom you could release information, has excluded all others. This rule of statutory construction has been reiterated by our Supreme Court in the recent case of Bushnell v. Superior Court of Maricopa, (1967) 102 Ariz. 309, 428 P.2d 987, as modified in 102 Ariz. 465, 433 P.2d 15.

In paragraph (D) of § 41-1650, supra, the Legislature further carries out this intent by:

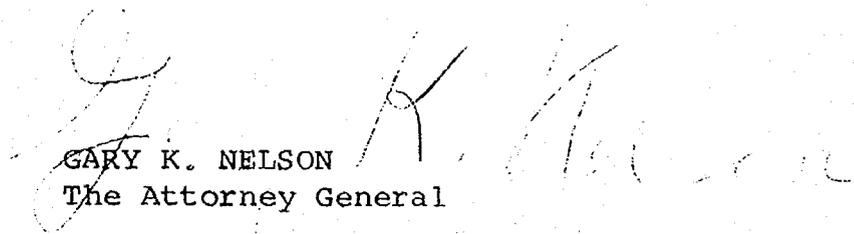
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"The chief of the criminal identification section, subject to the approval of the director, shall make and issue rules and regulations relating to the procurement and dissemination of information, in the manner prescribed by law."

As you can see, the quote "in the manner prescribed by law" again limits the dissemination to the above listed persons.

It is the opinion of this office that you would be well advised to establish rules under the administrative procedures act, § 41-1001 A.R.S. et seq., as to the means by which such information shall be made available.

Respectfully submitted,


GARY K. NELSON
The Attorney General

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