

Children's Law Center of Indiana



Delinquency

07/06/2007

In **J.B. v. State**, 868 N.E.2d 1197 (Ind. Ct. App. 2007), the Court affirmed the juvenile court's denial of the juvenile's motion to suppress fingerprint evidence in an interlocutory appeal. On November 3, 2005, a house was burglarized and a latent fingerprint was lifted at the scene. The police department's latent print operator ran the latent print through the Automatic Fingerprint Identification System (AFIS) and eventually determined that the print belonged to the juvenile. On March 21, 2006, the State filed a delinquency petition alleging that the juvenile had committed an act that would constitute the offense of burglary if committed by an adult. On April 13, 2006, the State filed a motion seeking permission to fingerprint the juvenile in order to compare his prints with those found at the scene of the crime. At a May 23, 2006 hearing, the juvenile moved to suppress any fingerprint analysis, claiming the State had not complied with the procedural requirements of IC 31-39-5-2 and -3. On July 7, 2006, the juvenile court granted the State's request to fingerprint the juvenile and denied the juvenile's motion to suppress. Upon the juvenile's request, the juvenile court certified the order for interlocutory appeal.

Inasmuch as there is not enough evidence in the record to know if the AFIS database containing juvenile fingerprints was "locked" to prevent access by unauthorized personnel, the Court agreed with the juvenile that the State failed to show that AFIS complied with the confidentiality requirements of IC 31-39-5. *Id.* at 1201. The Court examined IC 31-39-5-2, using standard rules of statutory construction which it discussed. In doing so, it stated, "The picture that emerges from this brief overview is that IC 31-39-5-2 is concerned not so much with the place juvenile fingerprint records are stored, but instead with limiting access to those with specific statutory authorizations. IC 31-39-5-2 must be interpreted in light of this overarching goal." *Id.* at 1200. The Court concluded that juvenile records must be stored such that persons authorized to access adult records but not juvenile records will not be able to access the latter while accessing the former, and any inference of physical separation that may be drawn is merely a means to the end of confidentiality. *Id.*

Notwithstanding that the State failed to establish that its method of storing juvenile fingerprints complied with IC 31-39-5, the latent print operator was authorized to view those records, and this overcomes the State's failure to establish that its procedures comply with IC 31-39-5-2. *Id.* at 1201. The Court noted that IC 31-39-4-8(a)(1) provides that the head of a law enforcement agency may grant a person having a legitimate interest, access to the agency's confidential records, considering that the best interests of the safety and welfare of the community are served by the public's ability to obtain information about the identity of anyone charged with the alleged commission of any act that would be murder or a

felony if committed by an adult. Id. The Court opined that, therefore, it might reasonably be assumed that the latent print operator had been legitimately granted access to juvenile fingerprint and photograph records in view of her position and duties, and that in view of her position, her area of expertise, and the particular reason she accessed the juvenile's fingerprint records in this case, the operator "fits squarely within the parameters" established by IC 31-39-4-8(a)(1) as someone authorized to view the confidential records. Id. Citing Shultz v. State, 742 N.E.2d 961 (Ind. Ct. App. 2001) regarding the inevitable discovery exception, the Court further concluded that, although the method of storing juvenile fingerprints was not proven to comply with the confidentiality requirements of IC 31-39-5-2, the juvenile's fingerprints would have been discovered even if the storage method was demonstrated to be in compliance, because the latent print operator was authorized to view the confidential records regardless. Thus, according to the Court, the denial of the motion to suppress was proper under the United States Constitution. J.B. at 1201-02.

Because he failed to raise it at the suppression hearing, the juvenile waived the third argument he raised on appeal -- that the State was required at the suppression hearing to demonstrate that the juvenile's prints on file in the AFIS database were taken in compliance with IC 31-39-5-1. Id. at 1202. The Court noted that, although at the suppression hearing the juvenile did challenge the admissibility of the fingerprints on grounds of improper storage pursuant to IC 31-39-5-2, he made no claim that the prints were illegally or improperly obtained in the first place. A defendant may not argue one ground for objection at trial and then raise new grounds on appeal. Id.