



STATE OF KANSAS

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Attorney General

April 8, 1977

ATTORNEY GENERAL OPINION NO. 77-119

The Honorable Dean J. Smith
Associate District Judge
Wyandotte County Courthouse
Kansas City, Kansas 66101

Re: Criminal Procedure - Uniform Extradition Act - Juveniles

Synopsis: The Uniform Extradition Act is applicable to a seventeen (17) year-old arrested in Kansas on a warrant from another state based on the commission of a crime in the demanding state where seventeen (17) year-olds are considered adults.

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Dear Judge Smith:

You inquire whether a seventeen (17) year-old, arrested in Kansas on a warrant from Missouri based on the commission of a crime in Missouri, where seventeen (17) year-olds are considered adults, should be processed according to the Kansas Juvenile Code (Interstate Compact on Juveniles) or the Kansas Criminal Procedure Code (Uniform Extradition Act). In the event detention is necessary, you inquire whether juvenile facilities or the adult county jail should be utilized.

The question you raise presents the issue of whether a person's status as a criminal should be determined by the laws of this state or the laws of the demanding state. Under the laws of Kansas, a seventeen (17) year-old could not be guilty of a crime - an extraditable offense - unless there is a finding after a proper hearing that the child is not a fit and proper subject to be dealt with under the Kansas Juvenile Code. This

Judge Smith
Page Two
April 8, 1977

applies, of course, to juveniles in Kansas who have had a petition filed with the District Court alleging that the child is, by reason of a violation of any criminal statute, a delinquent or miscreant child. In Missouri, a seventeen (17) year-old is considered an adult and can be charged with the commission of a crime.

Kansas and Missouri are parties to both the Interstate Compact on Juveniles and the Uniform Extradition Act, such acts providing for the return of juveniles and fugitives from justice, respectively, to other party states demanding their return. The Uniform Extradition Act involves the surrender by one state to another state an individual accused or convicted of an offense under the laws of the demanding state, which being competent to try and punish him, demands his surrender. The matters considered by the asylum state in its determination of whether there is a sufficient showing to warrant the extradition of the person demanded is limited to: (1) whether or not the person demanded is substantially charged with a crime under the laws of the demanding state; (2) whether the papers are in proper legal form; (3) whether the person demanded is one and the same person accused and (4) whether the accused is a fugitive from justice. *Roberts v. Reilly*, 116 U.S. 80 (1885); *Smith v. Nye*, 176 Kan. 679, 272 P.2d 1079 (1954); *Idom v. State*, 215 Kan. 456, 524 P.2d 217 (1974).

The Interstate Compact on Juveniles provides for the return of juveniles to demanding states entitled to custody of the child. The Compact provisions are intended to be guided by the noncriminal, reformatory and protective policies of the party states concerning delinquent, neglected or dependent juveniles generally. K.S.A. 38-1002. Interstate Compact on Juveniles, Article I. In the situation you present, the juvenile policies of the demanding state - Missouri - are not in issue as the accused is not considered a juvenile in that state.

In *People v. Pardo*, 47 Ill.2d 420, 265 N.E.2d 656 (1970), the Court held that any juvenile standing a seventeen (17) year-old defendant had in the asylum state, where he was considered a juvenile who might or might not have been tried as an adult, was irrelevant to prosecution for crimes committed in the demanding state where his standing as an adult was not subject to adjudication. Also, in *Ex parte Leatherwood*, 188 S.W.2d 581 (1945), the Court of Criminal Appeals of Texas held that the courts of Texas should not determine a person's status as to whether or not they are a juvenile under the laws of Texas; and that when a person is charged in the demanding state with a crime for which they can be extradited, they are subject to extradition. Thus, where the demanding state's request cites a criminal charge, the manner in which the demanding state treats its juvenile offenders is not a proper subject for inquiry in the asylum state's extradition proceedings. 73 A.L.R.3d 700, 704 (1976).

Judge Smith
Page Three
April 8, 1977

It is our opinion, then, that the Kansas Criminal Procedure Code and the Uniform Extradition Act would be applicable in the case of a seventeen (17) year-old arrested in Kansas on a warrant from a state where seventeen (17) year-olds are processed as adults. Such being the case, in the event detention is necessary, adult facilities could be utilized.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS:DLW:kns