



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

November 28, 1977

ATTORNEY GENERAL OPINION NO. 77- 363

Mr. Don Vsetecka
Finney County Attorney
118 West Pine Street
Garden City, Kansas 67846

Re: Juvenile Proceedings--City Attorneys--Responsibility

Synopsis: Under K.S.A. 1976 Supp. 38-815c(a), the district court may require a city attorney to be responsible for the initiation and prosecution of juvenile proceedings based upon offenses committed within the territorial jurisdiction of the city which, if committed by an adult, would be grounds for prosecution under an ordinance of such city.

* * *

Dear Mr. Vsetecka:

You request my opinion whether either the Finney County District Court or yourself as county attorney is authorized by K.S.A. 38-815c to establish a policy requiring all juvenile proceedings related to juvenile offenses which are committed within the City of Garden City to be commenced and prosecuted by the city attorney of the city and his staff.

K.S.A. 1976 Supp. 38-815c(a) provides in pertinent part thus:

"It shall be the duty of all county attorneys within their respective counties, district attorneys within their respective judicial districts and city attorneys within their respective cities, to give to the district court such aid in presenting evidence and otherwise assisting at hearings held

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pursuant to the juvenile code as may be required by the judge of the district court.
. . . Each county or district attorney shall prepare such petitions for proceedings pursuant to the juvenile code as may be required by the district court of such attorney's district pursuant to the provisions of subsection (b) of K.S.A. 1976 Supp. 38-816."

Under this section, each prosecuting official, be it county, city or district attorney, has a statutory responsibility to give the district court "such aid in presenting evidence and otherwise assisting" at juvenile hearings as the district court may require. Presumptively, the district court may require under this section each such prosecuting attorney to be responsible for the commencement and prosecution of such juvenile proceedings as fall within the official jurisdiction of the respective prosecuting officers. Thus, in my opinion, the district court may require the city attorney to commence and prosecute all juvenile proceedings which are based upon violations of city ordinances of the City of Garden City. This statute does not, however, authorize the district court to enlarge or diminish the official substantive responsibilities of the county or district attorney or the city attorney. Thus, in my judgment, the district court is not authorized under this section to require the city attorney to initiate and prosecute only those juvenile proceedings which are based upon offenses which, if committed by an adult, would be punishable by prosecution under a municipal ordinance of the city.

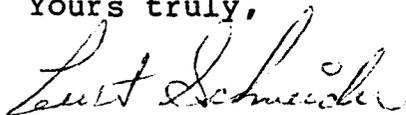
A juvenile proceeding is not, of course, a prosecution. This section authorizes the district courts to require prosecutorial officers, however, to assist in juvenile proceedings within their respective territorial jurisdictions, and in my judgment, the classes of juvenile proceedings for which the district court may require a prosecutor to be responsible are those which are based upon offenses which, if committed by an adult, that prosecutor would be authorized by virtue of his or her office to begin a criminal prosecution. The city attorney by virtue of his office is authorized only to prosecute violations of municipal ordinances, and thus, he or she may be held responsible by a policy of the district court for initiating juvenile proceedings based upon violations thereof committed by juveniles.

I find no authority under this section for the county attorney to adopt and enforce a policy requiring the city attorney to be

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responsible for any juvenile proceedings whatever. That responsibility rests with the district court, in my judgment.

Yours truly,

A handwritten signature in cursive script, appearing to read "Curt T. Schneider".

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj