



STATE OF KANSAS

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February 23, 1979

ATTORNEY GENERAL OPINION NO. 79- 23

Tim R. Karstetter
McPherson County Attorney
McPherson City Prosecutor
McPherson, Kansas 67460

Re: Cities and Municipalities -- Persons Under Arrest --
Right to Post Bond

Synopsis: K.S.A. 12-4213 provides that if a person has not posted bond, or appeared before the municipal court within twelve hours after being arrested, that person shall be released on his or her own personal recognizance to appear at a later date.

Dear Mr. Karstetter:

In your letter you have requested our opinion regarding the applicability of the 12 hour time limit contained in K.S.A. 12-4213. More specifically stated, the question raised is whether the 12 hour limit applies to only those persons who are in protective custody or does the time limit apply to anyone who is arrested.

Attorney General Opinion No. 78-120 discussed this precise question. The opinion noted that the right to obtain release on bail is heavily favored. Further the opinion stated:

"Thus, following the principles set forth ... and the language of K.S.A. 12-4213, it is our opinion that if an accused is unable to post bond set in the warrant, the arresting police agency may confine the accused to

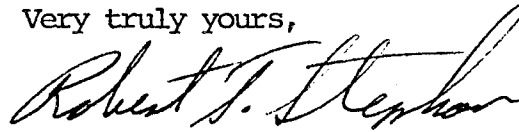
Mr. Tim R. Karstetter
Page Two
February 23, 1979

the local city or county jail pending an appearance before the municipal court or until said accused makes bond for his or her appearance, provided that if the accused within 12 hours of his arrest has not yet posted bond and has not yet appeared before the municipal court, he or she shall be released from the jail on his or her own personal recognizance to appear at a later date." (Emphasis added.)

The result of Opinion 78-120 and one in which we concur is that the 12 hour time limit set out in K.S.A. 12-4213 applies to a person arrested whether or not placed in protective custody.

Please find attached a copy of Attorney General Opinion No. 78-120 for your information.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Elsbeth D. Schafer
Assistant Attorney General

RIS:TDH:EDS:may