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June 5, 1979

ATTORNEY GENERAL OPINION NO. 79-105

Mr. Nick A. Tomasic
Wyandotte County District Attorney
Wyandotte County Courthouse
710 North 7th
Kansas City, Kansas 66101

Re: Crimes and Punishments -- Crimes Against the Public
Safety -- Unlawful Failure to Report a Wound

Synopsis: K.S.A. 21-4213 requires hospital personnel to report
all wounds resulting from the discharge of a firearm
and all life-threatening puncture wounds caused by
sharp objects to police authorities.

Re: Infants -- Crimes Affecting Children -- Reporting
Physical or Mental Abuse or Neglect of Children

Synopsis: K.S.A. 1978 Supp. 38-717 requires hospital personnel
to report all incidents of suspected physical or mental
abuse of persons less than eighteen (18) years of age
to the district court or department of social and
rehabilitation services in the area where treatment
occurred.

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Dear Mr. Tomasic:

You inquire what crimes hospitals and medical personnel are required
by law to report to police agencies. Since reporting requirements
vary according to the age of the victim, we will first consider the

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statutory provisions regarding crimes against all persons, then address the situation involving crimes affecting children.

K.S.A. 21-4213 provides:

"(1) Unlawful failure to report a wound is the failure by an attending physician or other person to report his treatment of any wound, described in subsections (a) and (b) hereafter, to the office of the chief of police of the city or the office of the sheriff of the county in which such treatment took place:

"(a) Any bullet wound, gunshot wound, powder burn or other injury arising from or caused by the discharge of a firearm; or

"(b) Any wound which is likely to or may result in death and is apparently inflicted by a knife, ice pick, or other sharp or pointed instrument.

"(2) Unlawful failure to report a wound is a class C misdemeanor."

This statute clearly establishes a legal duty on the part of medical personnel to report to police authorities any wound suffered due to the discharge of a firearm and any life-threatening puncture wound caused by a sharp object. Even though the foregoing statute thusly is limited in its scope, it should not be construed to preclude medical personnel from informing local authorities of treatment provided in connection with motor vehicle accidents, animal bite incidents, or similar non-confidential treatment situations when the report would be in the best interest of public safety and health. However, such discretionary reporting should necessarily be accomplished with respect to applicable ethical considerations and the physician-patient privilege.

You further inquire whether medical personnel have a duty to inform police authorities of medical treatment administered to victims of rape, drug abuse, alcohol abuse, attempted suicide and assault. Our research fails to reveal a statutory duty on hospital personnel to report such information to law enforcement agencies or officials when the party involved is over eighteen (18) years of age. Since the legislature has clearly addressed the topic of mandatory reporting of crimes in K.S.A. 21-4213 and has failed to include other crimes, such as those

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you have mentioned, we believe that reporting such information is discretionary rather than mandatory. This conclusion is qualified by the following discussion which relates to crimes affecting children.

The statutory duty to report incidents of physical or mental abuse or neglect of children is set out in K.S.A. 1978 Supp. 38-717 which provides:

"Every person licensed to practice the healing arts or dentistry, persons licensed to practice optometry, persons engaged in postgraduate training programs approved by the state board of healing arts, certified psychologists, Christian Science practitioners, licensed social workers, every licensed professional nurse or licensed practical nurse, examining, attending or treating a child under the age of eighteen (18), every teacher, school administrator or other employee of a school which such child is attending, the chief administrative officer of a medical care facility, every person licensed by the secretary of health and environment to provide child care services or employee of the person so licensed at the place where the child care services are being provided to the child, or any law enforcement officer having reason to suspect that a child has had injury or injuries inflicted upon him or her as a result of physical or mental abuse or neglect, shall report, and all other persons who have reason to suspect that a child has had injury or injuries inflicted upon him or her as a result of physical or mental abuse or neglect may report, the matter promptly to the district court of the county in which such examination or attendance is made, treatment is given, school is located or such abuse or neglect is extant or to the department of social and rehabilitation services. Such report may be made orally by telephone or otherwise and shall be followed by a written report if requested. When medical examination or treatment with respect to a child is pursuant to the performance of services of a member of the staff of a medical care facility or similar institution, such staff member shall immediately notify the superintendent, manager, or other person in charge of the institution who shall make such a report in writing forthwith. Every such report when required to be written shall contain, if known, the names and addresses of the child and his or her parents or other persons responsible for his or her care, the child's age, the nature and extent of the child's injuries (including any evidence of previous

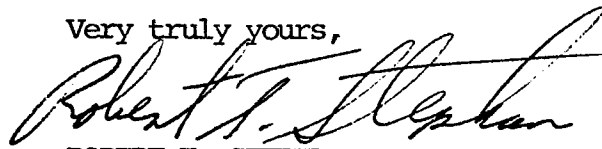
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injuries), and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons allegedly responsible therefor."

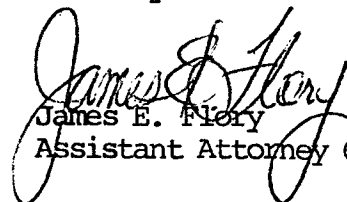
It is our opinion that the foregoing statute is controlling regarding the duty on the part of the persons designated therein (including medical personnel) to report crimes affecting persons under eighteen (18) years of age, and to the extent that it exceeds the duty discussed in the first portion of this opinion, the provisions of K.S.A. 1978 Supp. 38-717 apply. Therefore, an injury, although not the subject of mandatory reporting under K.S.A. 21-4213, may require a report pursuant to K.S.A. 1978 Supp. 38-717 if the victim of the incident is less than eighteen (18) years of age. In this respect, medical personnel are normally required to report incidents of rape, assault and attempted suicide when the party being treated is less than eighteen (18) years of age (pursuant to K.S.A. 1978 Supp. 38-717), but are not required to report such incidents when the victim is eighteen (18) years of age or older. It should be noted that K.S.A. 1978 Supp. 38-717 requires that the report be made to the district court or the department of social and rehabilitation services; therefore, to comply with the statute it is not necessary for medical personnel to inform police authorities in cases where K.S.A. 1978 Supp. 38-717 applies but K.S.A. 21-4213 does not apply.

An additional reference for guidance in this area is K.S.A. 65-2892a regarding the examination and treatment of minors for drug abuse. Since the statute expressly provides for treatment in this area without parental consent, we believe that there exists a potential conflict between K.S.A. 1978 Supp. 38-717 which mandates reporting of neglect or abuse, and K.S.A. 65-2892a which assures treatment confidentiality. It is our opinion that the legislative intent of K.S.A. 65-2892a is to allow treatment for drug abuse without undue exposure for the patient, and to that extent the specific dictates of K.S.A. 65-2892a override the general reporting provisions of K.S.A. 1978 Supp. 38-717. Having reviewed these statutes in pari materia, it is our opinion that medical personnel are not required to report drug abuse treatment of patients who are less than eighteen (18) years of age.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



James E. Flory
Assistant Attorney General

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