



STATE OF KANSAS

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December 19, 1984

ATTORNEY GENERAL OPINION NO. 84-126

Dennis W. Moore
District Attorney
Johnson County Courthouse
Box 728
Olathe, Kansas 66061

Re: Infants -- Juvenile Offenders Code -- Records of
Juveniles in NCIC system.

Synopsis: The names of juveniles aged 16 or 17 years of age who
have committed a public offense may be entered into the
NCIC system. Cited herein: K.S.A. 1983 Supp. 38-1607,
38-1608.

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Dear Mr. Moore:

As Johnson County District Attorney, you have requested our opinion
as to whether the names of juveniles 16 and 17 years of age may be
released by law enforcement agencies for entry into the NCIC (National
Crime Information Center) system.

K.S.A. 1983 Supp. 38-1607 provides in part:

"The official file of proceedings pursuant to this
code shall consist of the complaint, process, service
of process, orders, writs and journal entries reflecting
hearings held and judgments and decrees entered by

the court. . . . The official file shall be open for public inspection as to any juvenile 16 or more years of age at the time any act is alleged to have been committed. The official file shall be privileged as to any juvenile less than 16 years of age at the time any act is alleged to have been committed and shall not be disclosed directly or indirectly to anyone except:"

K.S.A. 1983 Supp. 38-1608 provides in pertinent part:

"(a) All records of law enforcement officers and agencies and municipal courts concerning a public offense committed or alleged to have been committed by a juvenile under 16 years of age shall be kept separate from criminal and other records and shall not be disclosed to anyone except: [exceptions omitted]

. . . .

"(c) All records of law enforcement officers and agencies and municipal courts concerning a public offense committed or alleged to have been committed by a juvenile 16 or 17 years of age shall be subject to the same disclosure restrictions as the records of adults."

Finding no Kansas cases which interpret these statutes, we apply basic rules of statutory construction. One such fundamental rule is that the purpose and intent of the legislature governs when that intent can be ascertained from the statute. Matter of Reed's Estate, 233 Kan. 531 (1983).

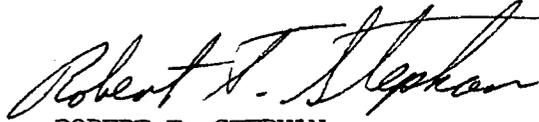
K.S.A. 1983 Supp. 38-1607 and 38-1608 clearly express the intent of the legislature to distinguish between records of juveniles under the age of 16 and those of juveniles 16 and 17 years old. While records of juveniles under the age of 16 may not be disclosed except to certain persons, the statutes in question plainly permit the disclosure of records of juveniles aged 16 and 17, "subject to the same disclosure restrictions as the records of adults." K.S.A. 1983 Supp. 38-1608. Adult records are variously restricted in Kansas by the Open Records Act (K.S.A. 1983 Supp. 45-205 et seq.), the Criminal History Record Information Act (K.S.A. 1983 Supp. 22-4701 et seq.), and rules and

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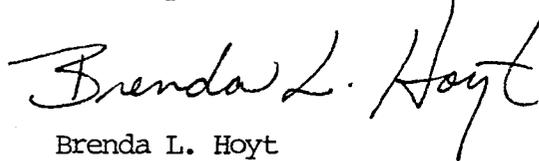
regulations adopted by the Director of the Kansas Bureau of Investigation. There is no Kansas statute which generally prohibits the entry of an adult's name into NCIC. Thus, we conclude that Kansas law does not prohibit the entry of names of alleged juvenile offenders aged 16 and 17 into the NCIC system.

However, we note that the Federal Bureau of Investigation has adopted certain standards which establish the circumstances in which a juvenile's name may be entered into NCIC. Therefore, only the names of those juveniles aged 16 and 17 who meet the criteria set forth by the FBI may be entered. To obtain the latest set of these standards, we suggest you contact the Bureau.

Very truly yours,



ROBERT T. STEPHAN
Attorney General



Brenda L. Hoyt
Deputy Attorney General

RTS:BLH:may