



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER
Attorney General

July 21, 1975

ATTORNEY GENERAL OPINION NO. 75- 300

Mr. Nick A. Tomasic
District Attorney
Wyandotte County Courthouse
Kansas City, Kansas 66101

Re: Criminal Law--Arrest and Search Warrants--
Disclosure

Synopsis: Whether disclosure of existence of a search or arrest warrant to a private investigator or other person is necessary for the execution of such warrant should be determined on a case-by-case basis by the person having custody of such warrants and of information concerning them.

* * *

Dear Mr. Tomasic:

You have requested an opinion from this office concerning the propriety of allowing a private investigator to obtain information from local law enforcement agencies relative to the issuance of a warrant prior to its execution.

In answering your question, we note K.S.A. 1974 Supp. 21-3827 which provides:

"An unlawful disclosure of a warrant is revealing or making public in any way, not necessary for the execution of such warrant, the fact that a search warrant or warrant for arrest has been applied for or issued or the contents of the affidavit or testimony on which such warrant is based, prior to the execution thereof. An unlawful disclosure of a warrant is a class B misdemeanor."

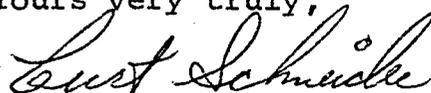
Mr. Nick A. Tomasic
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By virtue of being licensed, a private investigator enjoys no statutorily authorized access to warrants issued but unexecuted. The provisions of the above statute contain no requirement that the intent of the party making such disclosure be shown, and thus the statute is not directed solely at those who would by such disclosure, attempt to frustrate the administration of justice.

You indicate that a private investigator has inquired whether such access to information regarding outstanding warrants would be permissible on the ground that from time to time, while working on a private case, he encounters persons against whom a warrant may be outstanding, and if he is able to obtain information regarding the existence of a warrant, he may be of assistance in making the arrest. The statute prohibits disclosure "in any way, not necessary for the execution of such warrant." It is virtually impossible for us to conclude, purely as a matter of law, that regularized access to warrant information for any particular individual, private investigator or otherwise, is or is not "necessary for the execution" of arrest and search warrants. This determination must be made on a case-by-case basis, by the officers in charge of such information, based on the information available to them at the time each request for information is received, on the basis of which they can determine whether release of warrant information to the investigator in question, or to any other person, is "necessary" for its execution.

I enclose, also, a copy of Opinion No. 74-122, which I hope will be helpful.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

Enclosure



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

April 23, 1974

Opinion No. 74-122

James T. McDonald
Secretary of Revenue
State Office Building
Topeka, Kansas 66612

Dear Mr. McDonald:

You have requested an opinion from this office regarding the inspection, copying and dissemination of motor vehicle title and registration records kept in the offices of the county treasurers.

The initial question is whether such documents are public records and thus fall within the provisions of K.S.A. 45-201 and K.S.A. 45-202.

"All official public records . . . which records by law are required to be kept and maintained, except those . . . specifically closed . . . by law . . . shall at all times be open for a personal inspection by any citizen"
K.S.A. 45-201.

"[A]ny . . . person shall have the right of access to said records, documents or instruments for the purpose of making photographs of the same while in the possession . . . of the lawful custodian thereof, or his authorized deputy." K.S.A. 45-202.

It is provided in K.S.A. 8-145 that:

"All registration and certificates of title fees shall be paid to the county treasurer of the county in which the applicant for registration resides . . . and the said county treasurer shall issue his receipt in triplicate, . . . one copy of which shall be filed in the county treasurer's office. . . ."

James T. McDonald
April 23, 1974
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The county treasurer must file and maintain this receipt. Accordingly, the receipts are public records and fall within the provision of K.S.A. 45-201 and K.S.A. 45-202.

Further, it provides in K.S.A. 74-2012 that:

"All records pertaining to title, registration, . . . shall be . . . open to inspection by the public during office hours" [Emphasis supplied.]

Although this provision appears to have reference particularly with the Division of Vehicles, it does not restrict the records to this division nor prohibit the public inspection of records on file with the county treasurers. It is, therefore, the opinion of this office that such records on file with the county treasurer are public documents and open to inspection.

It is not our intent, however, to indicate that the county treasurer may conduct registration and title applications unfettered by any governing authority. Rather, in this regard, the county treasurer functions as the agent of the Secretary of Revenue and is subject to policy guidelines, rules and regulations established by the Secretary.

There is no requirement that the county treasurer disseminate such records to the public. To disseminate implies the publishing of such records to the general public without regard to specific demand or inquiry. We find no specific authority that poses such an obligation upon the county treasurer. To the contrary, the provisions of K.S.A. 45-201 would indicate that such records are to be revealed only on a personal basis to those who make specific demand or request for inspection.

The person desiring a copy shall be provided one at his own expense. Any funds that the county receives as a result of such charge shall be deposited in the county general fund. It is our opinion that the copies must be provided due to the provisions of K.S.A. 45-202 and for that reason K.S.A. 74-2012, which is merely the statutory authority for the Secretary of Revenue to assess charges for providing certain copies relating to drivers' licenses, has no application.

Yours very truly,

VERN MILLER
Attorney General

VM:DRH:MC:jsm