



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

March 15, 1976

ATTORNEY GENERAL OPINION NO. 76-89

Charles K. Hyter  
City Attorney  
City of Hutchinson  
P. O. Box 1567  
Hutchinson, Kansas 67501

Re: Crimes and Punishments -- Identification and Detection  
of Crimes and Criminals -- Fingerprinting.

Synopsis: A law enforcement agency has the authority to fingerprint individuals violating a city ordinance and K.S.A. 21-2501 places a duty on law enforcement officers and not a limitation.

\* \* \*

Dear Mr. Hyter:

You inquire if the language in K.S.A. 21-2501 precludes the fingerprinting of a person arrested in violation of the city ordinance.

The Courts have long held that a right exists independently of a statute to take photographs and fingerprints of an accused person before trial as a means of identifying an accused and in assisting in recapture in the event he escapes or flees. Sterling v. City of Oakland, 208 Cal. App.2d 1, 24 Cal. Rpts. 696 (1962); Shannon v. State, 207 Ark. 658, 182 S.W.2d 384 (1944).

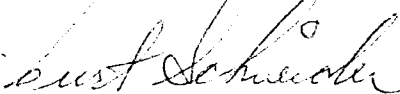
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In United States v. Kelly, 55 F.2d 67, the Court in upholding the authority of fingerprinting one charged with an unlawful sale of liquor stated:

"The appellee argues that many of the statutes and the decisions in common-law states have allowed fingerprinting only in cases of felonies. But as a means of identification, it is just as useful and important where the offense is a misdemeanor and we see no valid basis for differentiation."

It is our opinion that in enacting K.S.A. 21-2501, the legislature acknowledged the existence of the right and did not intend to place limitations thereon.

Very truly yours,

  
CURT T. SCHNEIDER  
Attorney General

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