



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

May 25, 1978

ATTORNEY GENERAL OPINION NO. 78-175

Mr. Donald E. Pipes
City Manager
8500 Santa Fe Drive
Overland Park, Kansas 66212

Re: Juveniles--Pre-Adjudication Restitution--Legality

Synopsis: There is no statutory or constitutional objection to the implementation of a juvenile program involving pre-adjudication restitution and incorporating a citizen accountability board, and providing for diversion of appropriate cases to the restitution program from the juvenile court system.

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Dear Mr. Pipes:

We have your letter of May 24, 1978, concerning an application which has been submitted by the City of Overland Park, Kansas, to the Governor's Committee on Criminal Administration to fund a voluntary youth diversion project sponsored by the city.

Under the program, juveniles who are apprehended for violations are afforded the opportunity to participate in the program, and the District Attorney will decide whether the case should be referred to the juvenile court system or to the diversion program. Upon a referral to the diversion system, and agreement thereto by the juvenile and his or her parent or guardian, appropriate consent forms are signed. The service component of the program will offer diagnostic testing for learning disabilities, other psychological diagnostic testing, referral services to community resources and counselling. The particular feature of the program

Mr. Donald E. Pipes
Page Two
May 25, 1978

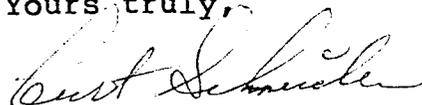
which prompts your inquiry is the so-called "accountability component," which entails a Citizens' Community Accountability Board, comprised of volunteers, which, after hearing reports from the complaining party, the juvenile and his or her parents, and the police department when appropriate, will negotiate a restitution agreement among all the parties involved, providing the juvenile an opportunity to make restitution for the offense through various alternatives, including repair of damage, community work without compensation, return or restoration of merchandise or other stolen property, or other possible alternatives. The restitution agreement will be agreed to by the juvenile and his or her parents and the hearing panel, and if the juvenile does not discharge his or her obligations under the agreement, the hearing panel may refer the case to the Juvenile Court. If the contract is fully completed, the case is regarded as closed, and no further referral to the judicial process of that matter is called for.

Apparently, for reasons not yet clear, staff of the Governor's Committee on Criminal Administration has questioned the concept of pre-adjudication restitution and the involvement of a citizen accountability board.

We have reviewed an opinion dated May 19, 1978, furnished Mr. David Greenamyre, assistant to the Overland Park city manager, by Mr. Dennis Moore, District Attorney for the Tenth Judicial District, reviewing both statutory and constitutional questions relating to the program. He found no statutory objection to its implementation, and no intrusion upon juveniles' constitutional rights to due process. I can but concur entirely in that opinion. No legislation is needed to authorize the program as it is described in the enclosures with your letter, and clearly, the program incorporates careful safeguards of the juveniles' constitutional rights. I agree entirely with Mr. Moore in his analysis of the program, and of any possible statutory or constitutional objections to it.

The program provides a valuable adjunct to the present judicial procedure for the handling of juvenile complaints. In response to your specific question, I believe that a pre-adjudication restitution program involving a citizen accountability board is an entirely appropriate and, indeed, valuable tool, and deserves the most serious consideration with a view toward its adoption.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj