

JUVENILE RECORDS: A person who is not an officer of the court, peace officer, or custodian of juvenile records who communicates information pertaining to juveniles which information he has not obtained directly or indirectly from juvenile court or peace officers' records is not subject to prosecution for violation of Section 211.321, RSMo Cum. Supp. 1957.



June 12, 1958

Honorable C. M. Hulen, Jr.
Prosecuting Attorney
Randolph County
Moberly, Missouri

Dear Sir:

Sometime ago you wrote to this department requesting an official opinion regarding the construction of Section 211.321, RSMo Cum. Supp. 1957.

More recently you have amended this opinion request which now is as follows:

"Is a person who is not an officer of the court, peace officer, or custodian of juvenile records, subject to prosecution under the Juvenile Code for publication or communication of information pertaining to juveniles where such person does not obtain such information directly or indirectly from juvenile court or peace officers' records relating to juveniles."

Numbered paragraphs 1 and 2 of Section 211.321, Missouri Revised Statutes, Cumulative Supplement 1957, read:

"1. The proceedings of the juvenile court shall be entered in a book kept for that purpose and known as the juvenile records. These records as well as all information obtained and social records prepared in the discharge of official duty for the court shall be open to inspection only by order of the court to persons having a legitimate interest therein.

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"2. Peace officers' records, if any are kept, of children, shall be kept separate from the records of persons seventeen years of age or over and shall not be open to inspection or their contents disclosed, except by order of the court. This subsection does not apply to children who are transferred to courts of general jurisdiction as provided by section 211.071."

The penalty for the violation of this section is set forth in Section 211.431, which reads:

"Any person seventeen years of age or over who willfully violates, neglects or refuses to obey or perform any lawful order of the court, or who violates any provision of this chapter is guilty of a misdemeanor."

It will be noted from a study of Section 211.321, supra, that the prohibition is against the disclosure of the contents of juvenile records. Your opinion request is in regard to the communication of information pertaining to juveniles where the person communicating such information does not obtain the information from juvenile records and where, it may be assumed, such person may not even know of the existence of such juvenile records.

It would appear to be perfectly plain that Section 211.321 was not designed to apply to a situation such as you set forth. This section obviously is intended to keep from the general public information regarding law violations by juveniles for the protection of juveniles. The law states that the information respecting such juveniles which is collected in a record shall not be disclosed by the custodian of such record except by order of the court. Certainly the first person subject to prosecution for violation of Section 211.321, supra, would be the custodian of the record who disclosed its content without an order of the court so to do. Whether further disclosure to other persons by the person to whom the custodian disclosed the contents of the record would be a violation is a matter which we are not here called upon to decide. As we stated above, it would seem to be perfectly clear that the communication

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of information, which information was not secured directly or indirectly from the juvenile records, could not possibly come within the compass of Section 211.321. To hold otherwise would lead to ridiculous results. An individual might have no knowledge whatever that any juvenile record existed; if he communicated information regarding such juvenile, which information was in the record, he would be subject to prosecution, whereas if he communicated information which was not in the record, he would not be subject to prosecution. Also, if he communicated information which was in the record, he would be subject to prosecution; whereas if he communicated exactly the same information but it so happened that there was no juvenile record then he would not be subject to prosecution.

We might also point out that the statement in the statute that the contents of the record could be disclosed only upon an order of the court, clearly could not apply to such an individual as is here under consideration and, therefore, that it could not have been the intention of the law that it should apply to such an individual.

CONCLUSION

It is the opinion of this department that a person who is not an officer of the court, peace officer, or custodian of juvenile records who communicates information pertaining to juveniles which information he has not obtained directly or indirectly from juvenile court or peace officers' records is not subject to prosecution for violation of Section 211.321, RSMo Cum. Supp. 1957.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Yours very truly,

John M. Dalton
Attorney General