

October 17, 1967

OPINION NO. 193
Answered-by-Letter(Burns)

Honorable Gene McNary
Prosecuting Attorney
St. Louis, County
Courthouse
Clayton, Missouri 63105



Dear Mr. McNary:

This is in answer to your letter of recent date in which you inquire whether the records kept under Section 66.200, RSMo Supp. 1965, are public records within the purview of Section 109.180, RSMo Supp. 1965, and therefore available to public inspection generally.

It is our view that the records kept under Section 66.200, are not public records available for inspection by all members of the public. Section 109.180 provides that state, county and municipal records kept pursuant to statute or ordinance shall at all reasonable times be open for a personal inspection by any citizen of Missouri except as otherwise provided by law. It is our view that the records kept under Section 66.200 are not public records because it is otherwise provided by law. Section 66.200 provides that all such records shall be available to the municipal police and Section 66.220, RSMo Supp. 1965, provides that the State Highway Patrol shall have access to all records of the county. The provisions in such Sections, that the municipal police and State Highway Patrol shall have access to such records show a legislative intent that such records are not open for inspection by the public generally but are available only to such police officers. If it were the legislative intent that such records were available to all citizens of the State of Missouri, the provisions relating to municipal police and the Highway Patrol would be absurd, vain and useless enactments.

In the Case of Laclede Gas Company vs. City of St. Louis,

Honorable Gene McNary

253 S.W.2d 832, the general rule regarding statutory construction is succinctly stated by the Supreme Court of Missouri, l.c. 835:

"It is so elementary as to require no citation of authority that the basic rule of construction of an ordinance or statute is to first seek the lawmakers' intention, and if possible to effectuate the intention. The law favors constructions which harmonize with reason, and which tend to avoid unjust, absurd, unreasonable or confiscatory results, or oppression. * * * "

In the case of Superior Minerals Co. vs. Missouri Pac. R. Co., 45 S.W.2d 912, the St. Louis Court of Appeals pointed out that in construing a statute it is to be presumed that no absurd or vain or useless use of words is intended. The Court said l.c. 915:

"Now in construing section 3309, R. S. 1929, we are bound to search for, and to give effect to, the true legislative intent expressed therein to the extent that the language used legitimately reveals it; and it is to be presumed that the entire section was designed to have a purpose and an effect, and that no absurd or vain use of words was employed."

In the case of Graves vs. Little Tarkio Drainage Dist. No. 1, 134 S.W.2d 70, the Supreme Court of Missouri held that every part of a statute is to be given effect and that the presumption is that the legislature did not intend any part of a statute to be without meaning and effect. The Court said l.c. 78:

" * * * 'It is an elementary and cardinal rule of construction that effect must be given, if possible, to every word, clause, sentence, paragraph, and section of a statute, and a statute should be so construed that effect may be given to all of its provisions, so that no part, or section, will be inoperative, superfluous, contradictory, or conflicting, and so that one section, or part, will not destroy another. Sutherland on Statutory Construction (2d Ed.) 731, 732, §380. Moreover, it is presumed that the Legislature intended every part and section of such a

Honorable Gene McNary

statute, or law, to have effect and to be operative, and did not intend any part or section of such statute to be without meaning or effect. * * * "

Since the legislature has provided that the municipal police and the Highway Patrol shall have access to the records provided for in Section 66.200, it is presumed that such provisions are not useless but are intended to and do have meaning and effect. Therefore, it is clear that in view of such provisions, the records required to be kept under Section 66.200 are not records open to inspection by the public generally.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

CRBJr:fls:ag