

JUVENILES:
JUVENILE OFFICER:
SHERIFFS:

It is the duty of the sheriff, if he is convinced that a person in his custody is a juvenile, to report the matter directly to the juvenile court or to the juvenile officer together with all the information he has obtained, and this relieves the sheriff of any further duty insofar as this juvenile is concerned.

OPINION NO. 76
383 (1967)

October 1, 1968

Honorable W. D. Settle
Prosecuting Attorney
Howard County Court House
Fayette, Missouri 65248



Dear Mr. Settle:

Recently you requested an opinion from this office as follows:

"1. After the initial investigation discloses that suspects are juveniles, does the sheriff have any further duties, except reporting the matter to the juvenile officer?

"2. Does the sheriff owe any duty to round up juvenile suspects and their parents for interview by the juvenile officer? If so, under what authority can he be paid his mileage?"

Section 211.061, RSMo 1959, provides in part:

"1. When a child is taken into custody with or without warrant for an offense, the child together with any information concerning him and the personal property found in his possession, shall be taken immediately and directly before the juvenile court or delivered to the juvenile officer or person acting for him."

In State v. Arbeiter, Mo., 408 S. W. 2d 26, a juvenile had been convicted of murder and sentenced to life in prison. When he was arrested by city police officers, he was questioned by them without being advised of his constitutional rights such as his right to remain silent or to consult a lawyer or that any statement made by

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him might be used against him. After being questioned by the city police he admitted his guilt and was then turned over to the juvenile authorities for further proceedings. In reversing this conviction the court stated, l.c. 29:

" * * * Once the police considered that they had sufficient reason to take Joe into custody, they were required to take him 'immediately and directly' to the juvenile court and it thereafter became the function of that agency to determine, in accordance with the procedures established by Chapter 211, whether or not sufficient grounds existed for the court's exercise of its jurisdiction."

The court held the statements made by the juvenile in response to the questions propounded by the police officer could not be used against the juvenile under these conditions. However, the court further stated it did not in this decision pass upon the question of spontaneous statements made by the juvenile prior to being taken before the juvenile court or juvenile officer or the statements made by the juvenile in response to questions after the juvenile had been placed in the custody of the juvenile court or the juvenile officer.

Section 211.411, RSMo, provides in part:

"2. It is the duty of police officers, constables, sheriffs and other authorized persons taking a child into custody to give information of that fact immediately to the juvenile court or to the juvenile officer or one of his deputies and to furnish the juvenile court or the juvenile officer all the facts in his possession pertaining to the child, its parents, guardian or other persons interested in the child together with the reasons for taking the child into custody."

Therefore, in response to your first question, it is our opinion that after the initial investigation by the sheriff discloses the suspects are juveniles, it is his duty to report the matter to the juvenile officer or after the juvenile is taken into custody either with or without a warrant, he must be taken immediately before the juvenile court or delivered to the juvenile officer.

Section 211.401, RSMo 1959, provides in part that the juvenile officer shall make such investigations and furnish the court with such information and assistance as the judge may require, take charge of children before and after the hearing as directed by the court, and perform such other duties and exercise such powers as the juvenile court may direct. It further provides:

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"2. The juvenile officer is vested with all the power and authority of sheriffs to make arrests and perform other duties incident to his office."

If the offense is committed in the presence of a sheriff, he may take the juvenile into custody and shall "immediately and directly" take him before the juvenile court or turn him over to the juvenile officer together with all information he has obtained, and this relieves the sheriff of any further duties insofar as this juvenile is concerned. Thereafter, it is the responsibility and duty of the juvenile officer to assume custody and make such investigation thereafter concerning the juvenile as he deems necessary. From this point on the matter is a juvenile proceeding and not a criminal proceeding, and the sheriff is under no duty to make any investigation of this juvenile or rounding up the parents for the purpose of interview by the juvenile officer.

CONCLUSION

It is the opinion of this office that it is the duty of the sheriff, if he is convinced that a person in his custody is a juvenile, to report the matter directly to the juvenile court or to the juvenile officer together with all the information he has obtained, and this relieves the sheriff of any further duty insofar as this juvenile is concerned.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly,



NORMAN H. ANDERSON
Attorney General