



*Sedgwick County...*  
*working for you*

## Office of the County Counselor

Eric Yost, County Counselor

525 North Main, Suite 359, Wichita, KS 67203-3731 –TEL: 316-660-9340 – FAX: 316-383-7007

September 08, 2016

Attorney General Derek Schmidt  
Kansas Attorney General  
120 SW 10th Ave., 2nd Floor  
Topeka, KS 66612

**RE: Opinion regarding Juvenile Intake and Assessment Center custody**

Dear General Schmidt:

On behalf of the Sedgwick County Corrections Juvenile Intake and Assessment Center (JIAC), I am writing to request an Attorney General's Opinion to the following question.

**Does JIAC ever obtain legal custody that would permit JIAC to transport youth or make medical decisions?**

When a juvenile is arrested or taken into custody, a number of different agencies are responsible for the juvenile's immediate disposition. First, "[a] juvenile taken into custody by a law enforcement officer shall be brought without unnecessary delay to an intake and assessment worker..." K.S.A. § 38-2330(d)(1). Then, JIAC is charged with collecting information and evaluating several criteria, as set out in K.S.A. §75-7023(c) & (d). Then, the JIAC worker may authorize release (with or without conditions), deliver the child to a shelter facility with law enforcement's written application, or refer the case to District Attorney's Office for prosecution. That summarizes the extent of JIAC's involvement in the process.

No legal custody is ever transferred to JIAC. Instead, custody is transferred from law enforcement directly to either a parent or guardian (K.S.A. § 75-7023(e)(1) or (2)), a shelter facility or licensed attendant care center (K.S.A. §75-7023(e)(3)), or the Juvenile Detention Facility (K.S.A. § 38-2330(d)(1) & 38-2331).

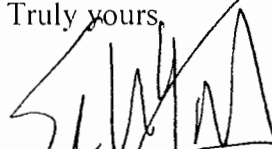
The Sedgwick County JIAC frequently encounters problems with the Wichita Police Department (WPD) regarding this statutory scheme. The problem arises when a juvenile is arrested by WPD and delivered to JIAC; the WPD officer then leaves; a medical problem with the juvenile is discovered; JIAC has no authority (because it lacks any custody) to transport the juvenile or consent to medical treatment; WPD refuses to return and authorize the appropriate treatment or transportation. While often the WPD's actions are inadvertent because the medical

issue is not obvious at intake or an emergency arises, there have been instances where the WPD officer has seemingly tried to subvert the process in order to abdicate his or her responsibility.

The legal departments for the City of Wichita and Sedgwick County have attempted to work through this problem. The city suggested that WPD should be responsible for the care of the juvenile if the officer "knew or should have known" about the juvenile's medical condition. However, the statutory scheme *never* transfers custody to JIAC, so JIAC is never in a legal position to authorize care or transport of *any* juvenile. Thus, the issue of "knew or should have known" is irrelevant. JIAC is an agent of the State and operates under JIAS Standards; JIAS-04-110 specifically prohibits JIAC from transporting youth to a hospital or mental health facility.

The county is asking for an opinion that juvenile custody never transfers to JIAC. Rather, custody is transferred directly from the law enforcement agency to the parent/guardian, shelter/facility, or JDF. If the juvenile's custody cannot be transferred to any of the aforementioned due to the juvenile's health, the law enforcement agency maintains custody for the purpose of arranging care and transportation for the juvenile.

Truly yours,

A handwritten signature in black ink, appearing to read "Eric R. Yost". The signature is stylized and somewhat cursive.

Eric R. Yost  
County Counselor

EY/TJR

Cc: File

Glenda Martens, Director, Sedgwick County Corrections

Jodi Tronsgard, Program Manager, Juvenile Intake and Assessment Center



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

RECEIVED  
SEP 23 2016  
BY: \_\_\_\_\_

**DEREK SCHMIDT**  
ATTORNEY GENERAL

September 21, 2016

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Eric R. Yost  
Sedgwick County Counselor  
525 North Main, Suite 359  
Wichita, KS 67203-3731

Re: OR 2016-28

Dear Mr. Yost:

Attorney General Schmidt has asked me to acknowledge receipt of your letter of September 8, 2016, concerning whether custody of a juvenile transfers from a law enforcement agency to a juvenile intake and assessment center (JIAC) upon the delivery of the juvenile to a JIAC, or whether the juvenile remains in the custody of law enforcement until the juvenile is eventually released to a parent/guardian or transferred to a shelter or other facility.

We will endeavor to provide a written response as soon as possible. We may be sending copies of the request to persons or organizations we believe may have an interest in the issue, seeking their input on the legal issue.

If you have or acquire knowledge of any legal or administrative proceedings pending or to be filed regarding the issues of your opinion request, please notify us immediately.

In any further correspondence with this office regarding your inquiry, please refer to the above-referenced opinion request number.

Thank you for your continued cooperation in matters of mutual concern.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL  
DEREK SCHMIDT

Sarah Fertig  
Assistant Attorney General

SF:sb