

MAY 5, 1953.

THE HONORABLE SANFORD BATES, *Commissioner,*  
*Department of Institutions and Agencies,*  
State Office Building,  
Trenton 7, New Jersey.

## FORMAL OPINION—1953. No. 17

MY DEAR COMMISSIONER BATES:

It appears that you desire to be advised concerning the type of information that may be furnished the State Selective Bureau respecting the adjudication made against a juvenile offender. Your inquiry flows from the fact that the various branches of the Armed Services of the United States require information of such a fact since it is a condition that prior to entry of such person into the Armed Forces that he shall have adjusted satisfactorily on probation or parole for a period of at least six months. The Selective Service Bureau wishes to be informed when a juvenile registrant for military service has offender status, and you desire to be advised whether this can be accomplished without contravention of the statutes relating to the disposition of juvenile offenders.

It is our opinion and we advise you that you may inform the Selective Service Bureau of the fact that a juvenile registrant has offender status so that compliance may be had with the federal regulations for entry into the various branches of the Armed Forces of the United States.

It is true that there are certain safeguards erected by our statutes to protect juvenile offenders. In N. J. S. 2A:85-4, it is said that "a person under the age of sixteen years is deemed incapable of committing a crime."

The public policy of this State is clearly enunciated in N. J. S. 2A:4-2, where it is provided, "it is hereby declared to be a principle governing the laws of this State that children under the jurisdiction of said (Juvenile and Domestic Relations) Court are wards of the State, subject to the discipline and entitled to the protection of the State, which may intervene to safeguard them from neglect or injury and to enforce the legal obligations due to them and from them."

In N. J. S. 2A:4-21, provision is made for fingerprinting of offenders between the ages of seventeen and eighteen years, "but if in case such person is found not to be guilty of such offense or such charge is dismissed, the State Bureau of Identification or any police department having possession of the same shall deliver such fingerprints to the Juvenile and Domestic Relations Court having jurisdiction of said proceedings, upon demand, and they thereupon shall be destroyed."

Perhaps the most important safeguard for the juvenile offender is found in N. J. S. 2A:4-39, as follows:

"No adjudication upon the status of a child under eighteen years of age shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall such a child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction. The disposition of a child under eighteen years of age or any evidence given in the Juvenile and Domestic Relations Court shall not be admissible as evidence against the child in any case or proceeding in any other court, nor shall such disposition or evidence be held against the child's record in any future Civil Service examination, appointment or application."

The records of the Juvenile Court concerning disposition made of juvenile cases are not always available for public inspection such as those of other courts. The Court had its origin in Chapter 157, P. L. 1929, and in Section 27 thereof it was provided that the records shall be withheld from indiscriminate public inspection but shall be open to inspection by the parent or other authorized representative of the person concerned and, in the discretion of the court, by other persons having a legitimate interest. This same language was carried forward into R. S. 9:18-35 when the statutes of this State were codified in 1937. However, the same section of the law was not re-enacted at the time of the Title 2A Revision, N. J. Statutes.

The matter received the attention of the Supreme Court in the draft of its rules and specifically in Rule 6:2-7 wherein it is stated that the records of the Juvenile Court shall be classified as (a) procedural and (b) social. With regard to procedural records which shall include docket, petitions, complaints, orders, etc., they shall be available for public inspection, except in juvenile causes, and then only in the discretion of the court. Social records are defined as those relating to psychological and psychiatric examinations and other reports concerning family life. These records are to be strictly safeguarded from indiscriminate public inspection. Here again, however, the court may, in its discretion, permit inspection of any of these documents when the best interest and welfare of the child is to be served.

It becomes obvious from a reading of the various statutes alluded to hereinabove and the Rule of Court that the primary purpose of keeping these records confidential is to make certain that the juvenile offender shall not be subject to any civil disabilities or other injury by a disclosure of his record. We understand that the rules and regulations of the Federal Government pertaining to the admission of persons into the Armed Forces provide that no one who has been adjudicated a juvenile offender shall be accepted for military service until he shall have been on probation or parole under satisfactory conduct for a period of at least six months. Thus the juvenile offender will not be subject to any disabilities or injury by furnishing information of the fact of his juvenile offender status to the various branches of the Armed Services for, at most, his entry into the Armed Forces will be delayed but six months.

For the reasons stated, we do not believe that the furnishing of this information to appropriate and accredited officials of the Federal Government is prohibited by the law of this jurisdiction.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General,*

By: EUGENE T. URBANIAK,  
*Deputy Attorney General.*