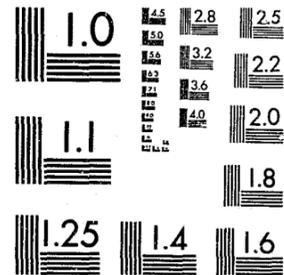


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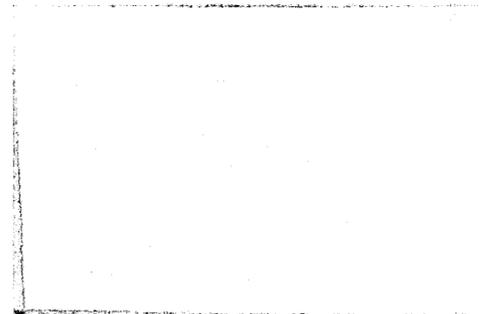
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FINGERPRINTING AND PHOTOGRAPHING
OF JUVENILES:
1980 STATUTES ANALYSIS

by

John L. Hutzler
Thomas S. Vereb
David R. Dexel

NCJRS

DEC 5 1983

ACQUISITIONS

National Center for Juvenile Justice
701 Forbes Avenue
Pittsburgh, Pennsylvania 15219
(412) 227-6950

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FINGERPRINTING AND PHOTOGRAPHING OF JUVENILES

A STATUTES ANALYSIS

INTRODUCTION

It is apparent from the maze of juvenile and family court acts that there is little uniformity among the states on the topics of fingerprinting and photographing of juveniles. The cause for the vascillation in policy may be attributed to the varied interests of the principles affected. Consequently, state legislatures have attempted to balance the interests of law enforcement, the court, and the child. On one side of the issue is the interests of law enforcement who support the unrestricted use of fingerprinting and photographing of children as a reliable and widely accepted means of identification in criminal-type case. Conversely, child advocates argue the potential abuses inherent in both the fingerprinting and photographing of juveniles.

Photographic identification possess many of the same inherent possibilities for abuse as does the use of the lineup. First, the witness is likely to be shown only photographs of prior offenders since these are most accessible to police. Second, the possibility of psychological reinforcement of a mistaken identification by the witness is especially strong, inasmuch as a lineup identification following a photographic identification may be based upon the similarity to the person in the photo, rather than to the offender. Third, photographs may be old, or may distort certain features of the person pictured, or may fail to disclose other significant characteristics of the person. Finally, the manner of showing photographs to the witness may be unnecessarily and prejudicially suggestive.¹

With fingerprinting, the greatest problem lies in the law enforcement agency's retention of the juvenile's fingerprints after the individual has

been exonerated, as well as the possible transfer of these prints to other agencies.²

Finally, child advocates promote ... the theory that the process of fingerprinting (in particular) may be more traumatic for a juvenile than for an adult and that the retention of fingerprints may stigmatize a juvenile and interfere with the historical rehabilitative purposes of juvenile court intervention.³

In response to the above, the views of law enforcement are as follows:

- A. Any person, regardless of age, arrested in connection with a crime in which fingerprints have been found or in which fingerprints may be expected to be found on yet undiscovered evidence should be fingerprinted for the purpose of verifying or disproving their personal contact with objects pertinent to the offense.
- B. The contention that the process of fingerprinting and taking of identification photographs is degrading or traumatic is without merit. The decision to take or not take fingerprints and photographs should not be based solely on the age of the subject but should also consider the seriousness of the offense.
- C. Where the police have reasonable cause to believe that the individual is likely to repeat his offensive behavior in the future and that such behavior is likely to result in criminal offenses which generally have fingerprint evidence, the individual should be fingerprinted and photographed for future comparative purposes.
- D. In cases involving habitual runaways, police should fingerprint and photograph the subject for the purpose of providing a firm identification record for future comparisons.
- E. All fingerprints of juveniles should be filed and coded as to restriction of use, if any legislative or judicial conditions exist.

- F. Fingerprint files have their greatest value in cases involving persons who are recidivists. In many cases the ability to positively identify a recidivist depends entirely on fingerprint records.
- G. The desirability of establishing standards and procedures for making certain identification records inactive or inaccessible still deserves further study. Such study must be conducted by persons fully aware of all the factors. Thus, representatives of law enforcement, the courts, youth-serving agencies and others must be convened for this purpose. Neither the police nor the legislative bodies can act without full and complete understanding of all viewpoints.

In the midst of the tension caused by the competing interests of the child and law enforcement is the court which often times treats a child differently from the adult criminal as a step toward correction and rehabilitation but who nonetheless must protect the interests of society.

The analysis that follows attempts to portray the state of legislative law, as expressed in juvenile and family court act, regarding fingerprinting and photographing of children. On page 5 appears a bar graph which profiles an overview of those thirty-five states that have legislation regarding the fingerprinting and photographing of children. Pages 7 to 8 contain a state by state analysis of the subject. Finally, on page 16 begins an appendix which presents in detail the various state statutes and their currency.

Method

The subject of fingerprinting and photographing of juveniles is treated in a variety of ways by state legislatures. Most legislation that addresses the subject does not distinguish between the two processes. Therefore, in the analysis that follows, most tabular entrees refer to

both fingerprinting and photographing with the exception of the variable labeled "latent prints". An entry in the "latent prints" column refers only to fingerprinting. Additionally, in those states where legislation distinguishes the two processes, the distinctions are noted in the narrative.

Statutory Provision

No Provision

5.

| | | States With Statutory Provisions | No Provision |
|-------------------------------------|-------------------------|----------------------------------|--------------|
| | | 35 | 17 |
| PRECONDITIONS TO TAKING | Judicial Consent | 28 | 7 |
| | Waiver | 13 | 22 |
| | Latent Prints | 3 | 32 |
| | Specified Offenses | 13 | 22 |
| | | 18 | 17 |
| RESTRICTIONS ON DISSEMINATION | Local | 27 | 8 |
| | State | 22 | 13 |
| | Federal | 26 | 9 |
| | | 20 | 15 |
| DISPOSITION | Automatic Destruction | 21 | 14 |
| | Age Offense Destruction | 17 | 18 |
| | Court Destruction | 7 | 28 |
| | 9 | 26 | |

6.

KEY TO TABLE I

- X -- State has a statutory provision covering this category.
- N -- No specific age is required.
- M -- Mandatory.
- P -- Prohibited.

The numbers are years, either a period of time or a person's age.

TABLE I

| State | PRECONDITIONS TO TAKING | | | | RESTRICTIONS ON DISSEMINATION | | | DISPOSITION | | |
|--------------|-------------------------|--------|------------------|-----------------------|-------------------------------|-------|---------|--------------------------|----------------------------|---------------------|
| | Judicial Consent | Waiver | Latent Prints | Specified Offenses | Local | State | Federal | Automatic Destruction | Age-Offense Destruction | Court Discretion |
| <u>Ala.</u> | | | X | 14 yrs. | M | M | | X | | |
| <u>Ark.</u> | | | | N | M | M | M | | | X |
| <u>Cal.</u> | | | | | M | M | M | | | |
| <u>Colo.</u> | | | | | P2 | P | P | | | |
| <u>Conn.</u> | | | | | | M | | | | |
| <u>Del.</u> | | | | | | | | | | X |
| <u>D.C.</u> | | | | | P2+3 | P2+3 | P2+3 | | | |
| <u>Fla.</u> | | | | N | M | M | M | | | X |
| <u>Ga.</u> | | | X | 13 yrs. | M | P1 | P1 | X | 21/5 | |
| <u>Idaho</u> | X | | | | | P1 | P1 | X | 21/3 | |
| <u>Ill.</u> | | | | | P3 | P3 | P3 | | | |
| <u>Ind.</u> | | | X | 14 yrs. | | | | X | | |
| <u>Iowa</u> | | X | X | 14 yrs. | | P | P | X | 21/5 | |
| <u>Kans.</u> | X | | | | | | | | | |
| <u>La.</u> | X | | | N | M | P | P | | | |
| <u>Miss.</u> | | | | N | M | P2 | P2 | | | |

| State | PRECONDITIONS TO TAKING | | | | RESTRICTIONS ON DISSEMINATION | | | DISPOSITION | | |
|--------|-------------------------|--------|---------------|--------------------|-------------------------------|-------|---------|-----------------------|-------------------------|------------------|
| | Judicial Consent | Waiver | Latent Prints | Specified Offenses | Local | State | Federal | Automatic Destruction | Age-Offense Destruction | Court Discretion |
| Mo. | X | | | | | | | | | |
| Mont. | X | | | | M | P2 | P2 | X | | X |
| Neb. | X | | | | | P2+4 | P2+4 | | | |
| Nev. | X | | X | 14 yrs. | M | H | P4 | X | | |
| N.J. | | | X | | M | | | | | X |
| N.Y. | | | | N | P | M | P | | | |
| N.D. | | | X | 14 yrs. | M | P1 | P1 | X | 18/2 | |
| Ohio | X | | | N | M | M | | X | | X |
| Okla. | | | X | | M | M | | | | |
| Oregon | X | X | | N | M | P | P | X | | X |
| Tenn. | X | | X | | | | | X | 21/5 | |
| Texas | X | | X | 15 yrs. | M | P | P | X | 18/1 | |
| Utah | X | X | | | | | | | | |
| Vt. | | | X | | M | P1 | P1 | X | 18/2 | |
| Va. | | | X | 13 yrs. | M | M | | X | | |
| Wash. | X | | | N | | | | X | | X |
| W.Va. | | | | | | | | X | | X |
| Wisc. | | | | N | | P | P | | | |
| Wyo. | | | X | N | M | M | | X | | |

NARRATIVE DESCRIPTION OF TABLE I

A. Introduction

The table presents three areas regarding the subject matter: (1) the creation; (2) the maintenance; and (3) the disposition of photographs and fingerprints of children.

Unless indicated otherwise, all entries pertaining to that state are individual in nature and not dependent upon other entries. Thus, if there are several entries, they represent the areas covered in that state's statutory language. One may not presume that the sequence of entries is a mandatory sequence of possibilities. Each entry in a given category should be considered autonomously from other entries for that state. Each category is defined. The definition is general in an attempt to incorporate the intent of the various statutes that have a provision on the subject. For an exact reading of the statute, consult the index.

The absence of an entry in any category indicates no statutory language on the subject matter.

B. Specific Descriptions and Comments to Categories

SECTION I

PRECONDITIONS TO TAKING

Before a juvenile's fingerprints or photograph may be taken, some states require certain events or circumstances to first occur.

A. Judicial Consent:

Before the taking of a photograph or fingerprints, judicial consent for each individual case may be a prerequisite. Those states that make judicial consent an absolute requirement are indicated by an asterisk.

Though Idaho initially requires judicial consent, fingerprinting is also allowed when "a peace officer determines it necessary for the detection and apprehension of an unknown offender".

In addition to an order of the court, Oregon allows for the taking of fingerprints and photographs for a variety of other circumstances. (See appendix.)

B. Waiver:

Authority to take fingerprints or a photograph exists when the proper juvenile court waives its jurisdiction over the juvenile and transfers the juvenile to a criminal or adult court.

C. Latent Prints:

Unless indicated otherwise, if latent fingerprints are found during the investigation of an offense and a law enforcement officer has probable cause (or reason) to believe that the prints are those of a particular child in custody, he may fingerprint the child regardless of age or offense for purposes of immediate comparison with the latent fingerprints. If the comparison is negative, the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is referred to the court, the

fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition. If the child is not referred to the court, the fingerprints shall be immediately destroyed.

The above definition is uniformly adopted by most states having a "latent print" provision. Tennessee, Vermont and Virginia have a "latent print" provision which is slightly different from the above definition. The state of New Jersey's statute is the most peculiar because it contains no provision for ultimate disposition of the latent prints. (See appendix.)

D. Specified Offenses:

When a child has committed a particular offense (most commonly an act that would be a felony if committed by an adult) and that child is at or over the indicated age (or if no age requirement, the letter N is given), fingerprints or a photograph may be taken upon referral to the court or when taken into custody.

The New York statutes allows for prints based on a variety of crimes and corresponding different age levels.

SECTION II

RESTRICTIONS ON DISSEMINATION

There are three basic areas of possible dissemination of fingerprints and photographs: the local level, the state central depository, and the federal government depository. An entry of M in any area indicates that the fingerprints or photographs are generally maintained on file or made available at this level. Where the statutory language has been general

and allowed dissemination "to other law enforcement agencies," the presumption is maintenance or dissemination at all three levels.

When the statute is restrictive, either expressly or implicitly, and prohibits dissemination at a given level, this is indicated by an entry of the letter P at the level of restriction. Though many states have language that prohibits dissemination, there are those who temper the prohibition with exceptions. These exceptions have been grouped into four general types:

1. Dissemination allowed for national security purposes.
2. Dissemination allowed for identification, investigation or comparison purposes.
3. Dissemination allowed upon court order.
4. Dissemination allowed upon conviction of a felony or a specific crime.

Thus, though a state has initial statutory language prohibiting dissemination at the federal level, if it specifies an exception for national security purposes, this entry would be coded as P-1 in the "federal" column. The dissemination of all latent prints is not included in this section. The reader is referred to Section I-C, Latent Prints, where the dissemination of latent prints is discussed.

There are few states with statutory language that seek to control the conditions upon which an agency may receive and use the fingerprints and photographs. Thus, fingerprints may be sent to Federal level for identification purposes only and they must be returned within a given time period. Alabama has specific precautions and limits the use of such

information at the state level. California permits dissemination at all three levels, but only for the purpose of obtaining identification or history of the minor. Florida restricts availability of fingerprints to "identification purposes" at all levels. At the state and federal level, Mississippi will release prints for identification only, but the prints must be returned promptly and not maintained at the state level only if the juvenile has committed certain crimes. Nevada allows dissemination to local and state levels if the child is 14 years or older and commits a felony.

SECTION III

DISPOSITION

In this section, an analysis of the ultimate disposition of the fingerprint or photograph record is profiled. The following are the three general possibilities offered in the various statutes.

A. Automatic Destruction:

Records of fingerprints and photographs are to be automatically destroyed when one or more of the following conditions occur: (1) the proceedings brought against the juvenile were dismissed; (2) the petition was either not filed or dismissed; (3) the juvenile's act was less than a felony; and (4) the felony in fact was not committed by this juvenile.

The Ohio statute allows for retention of prints for one year only. If there has been no complaint filed or if filed and the complaint is dismissed within that year, the prints are to be destroyed. In addition to the variable of "automatic destruction", Virginia also provides for destruction of a juvenile's prints irrespective of the court finding when the child is less than thirteen years of age.

B. Age-Offense Destruction:

When a juvenile has attained the indication age (the nominator of the fractional form), and if that juvenile has no recorded violations or convictions for the period of time as indicated (the denominator), the records are to be destroyed promptly upon request.

Though the child has reached the indicated age and has no recorded violations for the period indicated, Tennessee will stay the destruction of the prints if they were "obtained on an alleged charge which if committed by an adult would be a felony".

C. Court Discretion:

These states by this provision allow the court to use its discretion in each case.

PHOTOGRAPHING

Most state statutes are titled to indicate the content is applicable to "fingerprinting and photographing". This is an assumption of this report. It is noted that even though the title contains specific reference to photographing, it is not unusual for the content of the statute to speak of only fingerprinting in certain sections.

All of the entries (except entries in "Latent Prints") on the table may be assumed to apply to both fingerprints and photographs. Those states who have variations to this assumption are as follows: (1) Minnesota, statute addresses only photographing and is not included on the table and (2) the statutes of Georgia, Nebraska, Oklahoma, Utah

and West Virginia are for fingerprinting only. The reader should not assume entries for these states apply to photographs.

The states whose statutes on photographing vary from or are in addition to the statutes on fingerprints are as follows:

- | | |
|---------------|-----------------|
| 1. Alabama | 6. North Dakota |
| 2. Idaho | 7. Tennessee |
| 3. Iowa | 8. Texas |
| 4. Nevada | 9. Vermont |
| 5. New Jersey | 10. Virginia |

APPENDIX

TEXT OF STATUTES

ALABAMA

§ 12-15-102. *Taking and disposition of fingerprints and photographs of children.*

(a) Fingerprints of child 14 or more years of age who is referred to court for an alleged delinquent act may be taken and filed by law enforcement officers investigating the commission of a felony. If the court does not find that the child committed the alleged felony, the fingerprint card and all copies of the fingerprints shall be destroyed.

(b) If latent fingerprints are found during the investigation of an offense and a law enforcement officer has reason to believe that they are those of the child in custody, he may fingerprint the child regardless of age or offense for purpose of immediate comparison with the latent fingerprints. If the comparison is negative, the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is under 14 years of age and referred to court, the fingerprint card and other copies of the fingerprints shall be delivered to the court for disposition. If the child is not referred to court, the prints shall be immediately destroyed.

(c) If the court finds that a child 14 or more years of age has committed a felony, the prints may be retained in a local file and copies sent to a central state depository; provided, that the court shall, by rule, require special precautions to be taken to insure that such fingerprints will be maintained in such manner and under such safeguards as to limit their use to inspection for comparison purposes by law enforcement officers or by staff of the depository only in the investigation of a crime.

(d) A child in custody shall not be photographed for criminal identification purposes without the consent of the court unless the case is transferred for criminal prosecution.

(e) Any person who willfully violates provisions of this section shall, upon conviction thereof, be guilty of a misdemeanor. (Acts 1975, No. 1205, § 5-144.)

Ala. Code § 12-15-102.

ARKANSAS

SECTION 19. A juvenile shall not be photographed or fingerprinted by any law enforcement agency unless he has been taken into custody for a violation of the law. Copies of a juvenile's fingerprints or photograph shall be made available only to other law enforcement agencies and to the juvenile court. Each law enforcement unit in the State shall keep a separate file of photographs and fingerprints of juveniles, it being the intention that such photographs and fingerprints not be kept in the same file with those of adults. Provided, however, that in any case where the juvenile is found not to have committed the alleged violation of law, the juvenile court may order any law enforcement agency to return all pictures and fingerprints to the juvenile court and shall order the law enforcement unit that took the juvenile into custody to mark the arrest record with the notation 'found not to have committed the alleged offense'.
Ark. Stat. Ann. § 45-419.

CALIFORNIA

204. *Transmitting of information relating to arrest.*

The Department of justice shall not knowingly transmit to any person or agency any information relating to an arrest or taking into custody of a minor at the time of such arrest or taking into custody unless such information also includes the disposition resulting therefrom.

"Disposition," as used herein, includes a release of such minor from custody without the filing of an accusatory pleading or the filing of a petition under the provisions of this chapter, a determination of the issue of wardship by the juvenile court, or a determination by the juvenile court that such minor is not a fit subject to be dealt with under the provisions of this chapter.

This section shall not be construed to prohibit the Department of Justice from transmitting fingerprints or photographs of a minor to a law enforcement agency for the purpose of obtaining identification of the minor or from requesting from such agency the history of the minor.

This section shall not be construed to prohibit the Department of Justice from transmitting any information relating to an arrest or taking into custody of a minor received by said bureau prior to the effective date of this section.

West's Ann. Welf. & Inst. Code § 204.

COLORADO

(6) No fingerprint, photograph, name, address, or other information concerning identity of a child taken into temporary custody or issued a summons under the provisions of this article may be transmitted to the federal bureau of investigation or any other person or agency except a local law enforcement agency when necessary to assist in apprehension or to conduct a current investigation, or when the court orders the child to be held for criminal proceedings, as provided in section 19-1-104(4).

CONNECTICUT

Sec. 2. Section 54-761 of the general statutes is repealed and the following is substituted in lieu thereof:

The records of any youth adjudged a youthful offender, including fingerprints, photographs and physical descriptions, shall not be open to public inspection, but such fingerprints, photographs and physical descriptions submitted to the state police bureau of identification of the division of state police within the department of public safety at the time of the arrest of a person subsequently adjudged a youthful offender shall be retained as confidential matter in the files of such bureau, and be opened to inspection only as hereinafter provided. Other data ordinarily received by such bureau, with regard to persons arrested for a crime, shall be forwarded to the bureau to be filed, in addition to the fingerprints, photographs and physical descriptions as mentioned above, and be retained in the division as confidential information, open to inspection only as hereinafter provided. The court in its discretion, in any case, may permit an inspection of any papers or records and (1) such papers and records or any part thereof shall be made available to any judge for consideration in sentencing any person who has been convicted of a felony, as defined in section 53a-25 [and shall be available to] OR an adult probation officer, if requested by him, for the purpose of making the investigation ordered under section 54-109, with respect to the sentencing of such person; AND (2) INFORMATION OBTAINED FROM SUCH PAPERS AND RECORDS CONCERNING THE DISPOSITION OF THE CASE SHALL BE MADE AVAILABLE TO THE VICTIM OF THE CRIME IF REQUESTED BY HIM PRIOR TO THE ERASURE OF SUCH PAPERS AND RECORDS UNDER THE PROVISIONS OF SECTION 54-76c, PROVIDED SUCH INFORMATION SHALL NOT IDENTIFY THE YOUTHFUL OFFENDER INVOLVED. Any institution to which a youth is committed shall have the right to inspect any of the records of any person committed to it as a youthful offender, without a court order.

SI-46B-124(a)

DELAWARE

§ 930. *Records; expunging evidence of adjudication; destroying indicia of arrest.*

(a) In any case wherein an adjudication has been entered upon the status of a child under 18 years of age and 3 years have elapsed since the date thereof and no subsequent adjudication has been entered against such child, he, his parent or guardian may present a duly verified petition to the Court setting forth all the facts in the matter and praying for the relief provided for in this section; provided, however, that in any case wherein an adjudication has been entered upon the status of a child under 18 years of age and such child intends to enlist in any branch of the armed forces of the United States, he may at any time after the date of such adjudication present a duly verified petition to the Court setting forth all the facts in the matter including his intention to enlist documented in writing by the applicable military authority in said armed forces and praying for the relief provided in this section, and provided further that pursuant to the provisions and subject to the limitations hereinafter provided for in this section, an order directing an expunging from the records of all evidence of such adjudication upon the status of any such child and the destruction of all indicia of arrest including fingerprints and photographs may be granted.

Del. Code Ann. tit. 10, § 930(a).

DISTRICT OF COLUMBIA

§ 16-2334. *Fingerprint records.*

(a) The contents or existence of law enforcement records and files of the fingerprints of a child shall not be disclosed by the custodians thereof, except--

(1) to a law enforcement officer of the United States, the District of Columbia, or other jurisdiction for purposes of the investigation and trial of a criminal offense; or

(2) pursuant to rule or special order of the court.

(b) When a child is transferred for criminal prosecution under section 16-2307, law enforcement records and files of his fingerprints relating to any matter so transferred shall be deemed those of an adult.

(c) No person shall disclose, inspect, or use records in violation of this section.

D.C.C.E. § 16-2334.

FLORIDA

39.031 *Fingerprinting and photographing.--*

(1) Any law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed a violation of law. The fingerprint records and photographs so taken shall be retained by the law enforcement agency in a separate file maintained only for that purpose. These records including all copies thereof shall be marked "Juvenile Confidential." These records shall not be available for public disclosure and inspection under § 119.07, but such records shall be available to other law enforcement agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, or any other person authorized by the court to have access to such records. These records may, in the discretion of the court, be opened to inspection by anyone upon a showing of good cause. The fingerprint and photograph records shall be produced in the court whenever directed by the court. Any photograph taken pursuant to this section may be shown by a law enforcement officer to any victim or witness of a crime for the purpose of identifying the person who committed such crime.

(2) If the child is not referred to the court, or if the child is found not to have committed an offense or delinquent act, the court may, after notice to the law enforcement agency involved, order the originals and copies of the fingerprints and photographs destroyed. Unless otherwise ordered by the court, if the child is found to have committed an offense which would be a felony if it had been committed by an adult, then the law enforcement agency having custody of the fingerprint and photograph records shall retain the originals and immediately thereafter forward adequate duplicate copies to the court along with the written offense report relating to the matter for which the child was taken into custody. Except as otherwise provided by this subsection, the court, after the disposition hearing on the case, shall forward duplicate copies of the fingerprints and photographs, together with the child's name, address, date of birth, age, and sex, to the following agencies:

(a) The Department of Law Enforcement.

(b) The sheriff of the county in which the child was taken into custody, in order to maintain a central child identification file in that county.

(c) The law enforcement agency of each municipality having a population in excess of 50,000 persons and located in the county of arrest, if so requested specifically or by a general request by that agency.

(3) All law enforcement agencies and the Department of Law Enforcement shall use these fingerprint and photograph records only for identification purposes. If an identification is made, the Department of Law Enforcement shall advise the forwarding law enforcement agency of this fact and of the name and last known address of the child. Fingerprint and photograph records received pursuant to this section by the Department of Law Enforcement shall be retained and purged in the same manner as other information under § 39.12(2). Records relating to juveniles shall not be commingled with records of adult offenders.

FLORIDA
(continued)

(4) Nothing contained in this section shall prohibit the fingerprinting or photographing of child traffic violators. All records of juvenile traffic violations shall be kept in the full name of the violator and shall be open to inspection and publication in the same manner as adult traffic violations. Nothing contained in this section shall apply to photographing of children by the department.
F.S.A. § 39.031.

GEORGIA

24A-3503. *Children's Fingerprints, Photographs.*

(a) No child under 13 years of age shall be fingerprinted in the investigation of a crime except as provided in this Section. Fingerprints of a child 13 or more years of age who is referred to the court may be taken and filed by law enforcement officers in investigating the commission of the following crimes: murder, non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, housebreaking, purse snatching, and automobile theft.

(b) Fingerprint files of children shall be kept separate from those of adults. Copies of fingerprints known to be those of a child shall be maintained on a local basis only and not sent to a central state or federal depository unless needed in the interest of national security.

(c) Fingerprint files of children may be inspected by law enforcement officers when necessary for the discharge of their official duties. Other inspections may be authorized by the court in individual cases upon a showing that it is necessary in the public interest.

(d) Upon application of the child, fingerprints of a child shall be removed from the file and destroyed if:

(1) a petition alleging delinquency is not filed, or the proceedings are dismissed after either a petition is filed or the case is transferred to the juvenile court as provided in Section 24A-901, or the child is adjudicated not to be a delinquent child; or

(2) the child reaches 21 years of age and there is no record that he committed a criminal offense after reaching 16 years of age.

(e) If latent fingerprints are found during the investigation of an offense and a law enforcement officer has probable cause to believe that they are those of a particular child he may fingerprint the child regardless of age or offense for purposes of immediate comparison with the latent fingerprints. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is referred to the court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court, for disposition. If the child is not referred to the court, the fingerprints shall be immediately destroyed.

(f) Without the consent of the judge, a child shall not be photographed after he is taken into custody unless the case is transferred to another court for prosecution.

GEORGIA
(continued)

(g) (1) The name or picture of any child under the jurisdiction of the court for the first time shall not be made public by any news media, upon penalty of contempt under Section 24A-3601, except as authorized by an order of the court.

(2) It shall be mandatory upon the judge of the juvenile court to release the name of any child who is under the jurisdiction of the court for a second or subsequent time. No person, firm or corporation shall be guilty of any offense by making public the name or picture of any such child.
Ga. Code Ann. § 24A-3503.

IDAHO

16-1811. Apprehension and release of children -- Detention. -- 1.A

6. Neither fingerprints nor photographs shall be taken of any child taken into custody without consent of the judge, unless a peace officer determines it necessary for the detection and apprehension of an unknown offender. When fingerprints are taken, copies of the fingerprint cards shall not be sent to central, state or federal depositories except in national security cases or marked "for identification only"; and cards shall be removed from the local police file and destroyed by the local police chief, sheriff, or city or county clerk, whoever is responsible for the files: (a) if the decision after investigation of the case is that no basis for court jurisdiction exists; or (b) when the individual charged reaches his twenty-first birthday, if there has been no record of violation of law after reaching his eighteenth birthday.
Idaho Code § 16-1811(6).

ILLINOIS

702-8. § 2-8. *Confinement, Fingerprints, Photographs and Arrest Information.*

(2) No law enforcement officer or other person or agency may knowingly transmit to the Department of Corrections, Adult Division or the Department of Law Enforcement or to the Federal Bureau of Investigation any fingerprint or photograph relating to a minor who has been arrested or taken into custody before his 17th birthday, unless the court in proceedings under this Act authorizes the transmission or enters an order under Section 2-7 permitting the institution of criminal proceedings.

S.H.A. ch. 37, § 702-8(2).

INDIANA

31-6-8-1.5 *Fingerprints or photographs of child; filing; confidentiality; destruction; notice of rights; expungement of record.*

Sec. 1.5. (a) A law enforcement agency may take and file the fingerprints or photographs of a child for good cause shown to the court if:

- (1) the child is taken into custody for an act of delinquency defined by IC 31-6-4-1(a)(1); and
- (2) the child was over fourteen (14) years of age when the act was allegedly committed.

However, a juvenile court may, by general order, limit fingerprinting and photographing of children to situations in which children are charged with specified offenses.

(b) Fingerprint and photograph files of children shall be separated from those of adults. They are subject to the confidentiality provision of IC 31-6-8-1.2.

(c) If latent fingerprints are found during the investigation of an offense, and if a law enforcement officer has probable cause to believe that they belong to a certain child, the officer may fingerprint that child and compare his fingerprints with the latent fingerprints.

(d) Upon written request of the child or his parent, guardian, or custodian, a law enforcement agency shall destroy or deliver to the child any of the child's fingerprints or photographs taken under subsection (a) that are within that agency's possession if:

- (1) the child was taken into custody and no petition was filed against him;
- (2) the petition was dismissed because of mistaken identity;
- (3) the petition was dismissed because no delinquent act was actually committed; or
- (4) the petition was dismissed for lack of probable cause.

However, if the child has a record of prior arrests or if another charge is pending against him, the law enforcement agency need not destroy his fingerprints or photographs.

(e) At the time a law enforcement agency takes a child's fingerprints or photographs, it shall give written notice to the child and his parent, guardian, or custodian of the child's rights under subsection (d). The agency shall comply with any request for destruction or surrender of the records within sixty (60) days of the request.

(f) Any law enforcement agency that has forwarded copies of fingerprints or photographs that it must destroy under subsection (d), to any agency of the United States, of any other state, or of this state, shall request in writing that all such copies be returned for destruction or for presentation to the child.

(g) Whenever fingerprints or photographs are expunged from the files of a law enforcement agency under subsection (d), no other information on the incident may be retained by the law enforcement agency. However, this does not require the alteration of any law enforcement record, such as a blotter entry made at the time of arrest, or of any record in the juvenile court.

Ind. Ann. Stat. § 31-6-8-1.5.

IOWA

232.148 Fingerprints--photographs.

1. Except as provided in this section, a child shall not be fingerprinted by a criminal justice agency after he or she is taken into custody and fingerprint files of children shall not be inspected unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for the commission of a public offense.

2. Fingerprints of a child who has been taken into custody and who is fourteen years of age or older may be taken and filed by a criminal justice agency investigating the commission of a public offense constituting a felony.

3. If a peace officer has reasonable grounds to believe that latent fingerprints found during the investigation of the commission of a public offense are those of a particular child, fingerprints of the child may be taken for immediate comparison with the latent fingerprints regardless of the age of the child or the nature of the offense. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is referred to the court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition. If the child is not referred to the court the fingerprint card and copies of the fingerprints shall be immediately destroyed.

4. Fingerprint files of children shall be kept separate from those of adults. Copies of fingerprints of a child shall not be placed in any data storage system established and maintained by the department of public safety pursuant to chapter 692, or in any federal depository for fingerprints.

5. Fingerprint files of children may be inspected by peace officers when necessary for the discharge of their official duties. The juvenile court may authorize other inspections of such files in individual cases upon a showing that inspection is necessary in the public interest.

6. Fingerprints of a child shall be removed from the file and destroyed if:

a. A petition alleging the child to be delinquent is not filed; or

b. After a petition is filed, the petition is dismissed or the child is found by the court not to be delinquent; or

c. Upon petition by the child when he or she reaches twenty-one years of age and he or she has not been adjudicated a delinquent nor convicted of committing an aggravated misdemeanor or a felony after reaching sixteen years of age.

7. A child shall not be photographed by a criminal justice agency after he or she is taken into custody without the consent of the court unless the court waives jurisdiction over the child so that he or she may be prosecuted as an adult for the commission of a public offense.

I.C.A. § 232.148.

KANSAS

38-805c. Records of governmental entities concerning juvenile offenses; restrictions; disclosure. (a) Neither the fingerprints nor a photograph shall be taken of any child less than eighteen (18) years of age, taken into custody for any purposes, without the consent of the judge of the district court having jurisdiction. When the judge permits the fingerprinting of any such child, the prints shall be taken as a civilian and not as a criminal record.

b. Except as provided in subsection (c), all records of law enforcement officers or agencies, municipal courts and other governmental entities in this state concerning a public offense committed or alleged to have been committed by a child less than eighteen (18) years of age, shall be kept separate from criminal or other records, and shall not be disclosed to anyone, except:

(1) The judge, and members of the court staff designated by the judge, of a district court having the child before it in any proceeding;

(2) the parties to the proceeding and their counsel;

(3) the officers of public institutions or agencies to whom the child is committed;

(4) law enforcement officers of other jurisdictions when necessary for the discharge of their official duties; or

(5) to any other person, when ordered by a judge of a district court in this state, under such conditions as the judge may prescribe.

(c) Subsections (b) and (d) shall not apply to records and files:

(1) Made in conjunction with prosecutions pursuant to the code of criminal procedure;

(2) concerning an offense for which a district court has directed prosecution pursuant to K.S.A. 1978 Supp. 38-808;

(3) concerning a traffic offense described in subsection (e) of K.S.A. 1978 Supp. 38-802, which was committed or alleged to have been committed by a child fourteen (14) years of age or more; or

(4) specified in K.S.A. 1978 Supp. 38-805.

(d) It shall be the duty of any law enforcement officer, judge or other public officer, making or causing to be made any record or file concerning an offense committed or alleged to have been committed by a person less than eighteen (18) years of age, to promptly report to the judge of the district court of the district of such officer or judge the fact that such record or file has been made and the substance thereof together with all of the information in the possession of the officer or judge pertaining to the making of such record or file.

K.S.A. § 38-805c.

LOUISIANA

Art. 36. *Identification procedures.*

A. A child may be photographed or fingerprinted only in connection with being taken into custody for the commission of:

(1) an act which if committed by an adult would be considered a felony; or

(2) an act which if committed by an adult would be considered a misdemeanor involving the use of a dangerous weapon.

B. Upon motion of the district attorney, the court may order any child to submit to reasonable identification procedures, such as to provide handwriting exemplars, to be fingerprinted, or stand in a lineup.

C. Fingerprints and photographs taken pursuant to Paragraphs A and B shall be maintained and indexed separately from those of adults and shall not be sent to a central state, regional, or federal bureau of criminal identification.

MINNESOTA

260.161 [RECORDS.]

Subdivision 1. The juvenile court judge shall keep such minutes and in such manner as he deems necessary and proper. The court shall keep and maintain records pertaining to delinquent adjudications until the person reaches the age of 23 years and shall release the records on an individual to a requesting adult court for purposes of sentencing. The juvenile court shall provide, upon the request of any other juvenile court, copies of the records concerning adjudications involving the particular child. The court shall also keep an index in which files pertaining to juvenile matters shall be indexed under the name of the juvenile. After the name of each file shall be shown the file number and, if ordered by the court, the book and page of the register in which the documents pertaining to such file are listed. The court shall also keep a register properly indexed in which shall be listed under the name of the juvenile all documents filed pertaining thereto and in the order filed. The list shall show the name of the document and the date of filing thereof. The juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, findings, orders, decrees, judgments, and motions and such other matters as the court deems necessary and proper. The legal records maintained in this file shall be open at all reasonable times to the inspection of any minor to whom the records relate, and to his parent and guardian.

Subd. 2. Except as provided in this subdivision and in subdivision 1, none of the records of the juvenile court, including legal records, shall be open to public inspection or their contents disclosed except by order of the court. The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. This subdivision does not apply to proceedings under sections 260.255 and 260.261. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record a reasonable time before it is used in connection with any proceeding before the court.

Subd. 3. Peace officers' records of children shall be kept separate from records of persons 18 years of age or older and shall not be open to public inspection or their contents disclosed to the public except by order of the juvenile court. No photographs of a child taken into custody for any purpose may be taken without the consent of the juvenile court. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

M.S.A. § 260.161.

MISSISSIPPI

Section 10. Section 43-21-255.

43-21-255. Law enforcement records. (1) Except as otherwise provided by this section, all records involving children made and retained by law enforcement officers and agencies or by the youth court prosecutor and the contents thereof shall be kept confidential and shall not be disclosed except as provided in Section 43-21-261.

(2) A child who has been taken into custody for an act, which if committed by an adult would be considered a felony and/or offenses involving possession or use of a dangerous weapon, may be photographed and/or fingerprinted. Any law enforcement agency taking such photographs and/or fingerprints shall immediately report the existence and location of the photographs and fingerprints to the youth court. Copies of fingerprints known to be those of a child shall be maintained on a local basis only. Such copies of fingerprints may be forwarded to another local, state or federal bureau of criminal identification or regional depository for identification purposes only. Such copies of fingerprints shall be returned promptly and shall not be maintained by such agencies.

(3) Any law enforcement record involving children, including photographs and fingerprints, may be released to a law enforcement agency supported by public funds without a court order under Section 43-21-261. Except as provided in subsection (4) of this section, any law enforcement agency releasing such records shall immediately report the release and location of the records to the youth court. The law enforcement agencies receiving such records are prohibited from using the photographs and fingerprints for any purpose other than for criminal law enforcement and juvenile law enforcement. In no instance shall the fact that such records exist be conveyed to any private individual, firm, association or corporation or to any public or quasi-public agency the duties of which do not include criminal law enforcement or juvenile law enforcement.

(4) When a child's driver's license is suspended for refusal to take a test provided under the Mississippi Implied Consent Law, the law enforcement agency shall report such refusal, without a court order under Section 43-21-261, to the Commissioner of Public Safety in the same manner as such suspensions are reported in cases involving adults.
Miss. Code Ann. § 43-21-255.

MISSOURI

211.151. *Places of detention--photographing and fingerprinting restrictions.*

1. Pending disposition of a case, the juvenile court may order in writing the detention of a child in one of the following places:

(1) A detention home provided by the county;

(2) A foster home, subject to the supervision of the court;

(3) A suitable place of detention maintained by an association having for one of its objects the care and protection of children;

(4) A jail or other facility for the detention of adults, if the child's habits or conduct are such as to constitute a menace to himself or others and then only if he is placed in a room or ward entirely separate from adults confined therein;

(5) Or such other suitable custody as the court may direct.

2. Neither fingerprints nor a photograph shall be taken of a child taken into custody for any purpose without the consent of the juvenile judge.
V.A.M.S. § 211.151.

MONTANA

41-5-304. *Fingerprints and photographs.*

(1) Title 46 shall apply to all enforcement investigations relating to a complaint alleging a delinquent youth or youth in need of supervision, except that:

(a) no youth may be fingerprinted or photographed for criminal identification purposes except by order of the youth court judge;

(b) no fingerprint records or photographs may be filed with the federal bureau of investigation, the Montana department of justice, or any other than the originating agency, except for sending the fingerprints or photographs to any law enforcement agency for comparison purposes in the original investigation.

(2) At such time as the proceedings in the matter, including appeals, are complete, the fingerprint records and photographs shall be destroyed. However, such fingerprint records and photographs may be retained by the originating agency for a specific period when ordered by the court for good cause shown.

NEBRASKA

43-212.01. *Children under fourteen years of age; taken into custody for investigation of unlawful act; fingerprinting; consent of district, district county, associate county, or separate juvenile court judge.* The fingerprints of any child less than fourteen years of age, who has been taken into custody in the investigation of his or her suspected unlawful act, shall not be taken unless the consent of any district, district county, associate county, or separate juvenile court judge has first been obtained.

43-212.02. *Children under fourteen years of age; fingerprints; separate files.* If the judge permits the fingerprinting, the fingerprints must be filed by law enforcement officers in files kept separate from those of persons of the age of majority.

43-212.03. *Fingerprints of child less than eighteen years of age; sent to state or federal depository, when.* The fingerprints of any child less than eighteen years of age shall not be sent to a state or federal depository by a law enforcement agency of this state unless: (1) The child has been convicted of a felony; (2) the child has unlawfully terminated his or her commitment to a youth development center; or (3) the child is a runaway, and a fingerprint check is needed for identification purposes to return the child to his parents.

NEVADA

62.265 *Fingerprinting, photographing accused child.*

1. Fingerprints of a child 14 years of age or older who is referred to court may be taken and filed by law enforcement officers investigating the commission of an act which would constitute a felony if committed by an adult. If the court does not find that the child committed the alleged act, the fingerprint card and all copies of the fingerprints shall be destroyed. If a child under 14 years of age is being investigated for an act which would constitute a felony if committed by an adult, he may be fingerprinted with a proper court order.

2. If latent fingerprints are found during the investigation of an offense and a law enforcement officer has reason to believe that they are those of the child in custody, he may fingerprint the child regardless of age or offense for purposes of immediate comparison with the latent fingerprints. If the comparison is negative, the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is under 14 years of age and referred to court, the fingerprint card and other copies of the fingerprints shall be delivered to the court for disposition. If the child is not referred to court, the prints shall be immediately destroyed. Fingerprints shall not be submitted to the Federal Bureau of Investigation or Criminal Identification and Investigation Bureau of California unless the child is found to have committed an act of delinquency which would constitute a felony if committed by an adult.

3. If the court finds that a child 14 years of age or older has committed an act of delinquency which would constitute a felony if committed by an adult, the prints may be retained in a local file or sent to a central state depository but they shall be kept separate from those of adults, under special security measures limited to inspection for comparison purposes by law enforcement officers or by staff of the depository only in the investigation of a crime.

4. A child in custody shall not be photographed for criminal identification purposes without the consent of the judge unless the case is certified for criminal prosecution.

5. Any person who willfully violates any provision of this section is guilty of a misdemeanor.

Nev. Rev. Stat. § 62.265.

NEW JERSEY

2A:4-66. *Fingerprints, photographs of juveniles.*

a. Fingerprints of a juvenile under age 16 may be taken only in the following circumstances:

(1) Where latent fingerprints are found during the investigation of an offense and a law enforcement officer has reason to believe that they are those of a juvenile, he may fingerprint the juvenile for the purpose of comparison with the latent fingerprints.

(2) Where a juvenile is detained in or committed to an institution, that institution may fingerprint the juvenile for the purpose of identification.

b. All records or copies of the fingerprints of juveniles shall be retained by the department, agency or institution taking them and shall be forwarded to the court for destruction when the court determines that the purpose for the taking of the fingerprints has been fulfilled, except that fingerprints taken of a juvenile of more than 16 years of age may be retained by a law enforcement agency for criminal identification purposes if such juvenile is adjudged delinquent.

c. No juvenile under the age of 16 shall be photographed for criminal identification purposes without the consent of the juvenile and domestic relations court.

N.J.S.A. § 2A:4-66.

NEW YORK

§ 724-a. *Fingerprinting of certain alleged juvenile delinquents.*

1. Following the arrest of a person alleged to be a juvenile delinquent, or the appearance in court of a person not arrested who is alleged to be a juvenile delinquent, the arresting officer or other appropriate police officer or agency shall take or cause to be taken fingerprints of the arrested person or respondent if: (a) the arrested person or respondent is eleven years of age or older and the act which is subject of the arrest or which is charged in the petition would, if committed by an adult, constitute a class A or B felony; or

(b) the arrested person or respondent is thirteen years of age or older and the act which is subject of the arrest or which is charged in the petition would, if committed by an adult, constitute a class C felony.

2. Whenever fingerprints are required to be taken pursuant to subdivision one of this section, the photograph and palmprints of the arrested person or respondent, as the case may be, may also be taken.

3. The taking of fingerprints, palmprints, photographs, and related information concerning the arrested person or respondent and the facts and circumstances of the acts charged in the juvenile delinquency proceeding shall be in accordance with standards established by the commissioner of the division of criminal justice services and by applicable provisions of this article.

4. Upon the taking of fingerprints pursuant to subdivision one of this section, the appropriate officer or agency shall, without unnecessary delay, forward such fingerprints to the division of criminal justice services and shall not retain such fingerprints or any copy thereof. Copies of photographs and palmprints taken pursuant to this section shall be kept confidential and only in the exclusive possession of such law enforcement agency, separate and apart from files of adults.

§ 724-b. *Fingerprinting; duties of the division of criminal justice services.*

1. Upon receipt of fingerprints taken pursuant to section seven hundred twenty-four-a of this chapter, the division of criminal justice services shall retain such fingerprints distinctly identifiable from adult criminal records except as provided in section seven hundred fifty-three-b of this act, and shall not release such fingerprints to a federal depository or to any person except as authorized by this act. The division shall promulgate regulations to protect the confidentiality of such fingerprints and related information and to prevent access thereto, by, and the distribution thereof to, persons not authorized by law.

2. Upon receipt of fingerprints taken pursuant to section seven hundred twenty-four-a of this chapter, the division of criminal justice services shall classify them, search its records for information concerning an adjudication of the person arrested or respondent or an arrest for juvenile delinquency which is pending and promptly transmit to such forwarding officer

NEW YORK
(continued)

or agency a report containing all information on file with respect to such person's previous adjudications or arrests for juvenile delinquency which are pending, if any, or stating that the person arrested or respondent has no previous record according to its files.

3. Upon receipt of a report of the division of criminal justice services pursuant to this section, the recipient office or agency must promptly transmit two copies of such report to the family court in which the proceeding is pending and a copy thereof to the governmental authority presenting the petition for juvenile delinquency. The family court shall furnish a copy thereof to counsel for the respondent or to the respondent's law guardian.

Family Court Act § 724-a, b.

NORTH DAKOTA

27-20-53. *Children's fingerprints, photographs.*

1. No child under fourteen years of age shall be fingerprinted in the investigation of a crime except as provided in this section. Fingerprints of a child fourteen or more years of age who is referred to the court may be taken and filed by law enforcement officers in investigating the commission of the following crimes: murder, manslaughter, gross sexual imposition, robbery, aggravated assault, burglary, and theft.
2. Fingerprint files of children shall be kept separate from those of adults. Copies of fingerprints known to be those of a child shall be maintained on a local basis only and not sent to a central state or federal depository unless needed in the interest of national security.
3. Fingerprint files of children may be inspected by law enforcement officers when necessary for the discharge of their official duties. Other inspections may be authorized by the court in individual cases upon a showing that it is necessary in the public interest.
4. Fingerprints of a child shall be removed from the file and destroyed if:
 - a. A petition alleging delinquency is not filed, or the proceedings are dismissed after either a petition is filed or the case is transferred to the juvenile court as provided in section 27-20-09, or the child is adjudicated not to be a delinquent child; or
 - b. The child reaches eighteen years of age and there is no record that he committed a criminal offense after reaching sixteen years of age.
5. If latent fingerprints are found during the investigation of an offense and a law enforcement officer has probable cause to believe that they are those of a particular child he may fingerprint the child regardless of age or offense for purposes of immediate comparison with the latent fingerprints. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is referred to the court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition. If the child is not referred to the court, the fingerprints shall be immediately destroyed.
6. Without the consent of the judge, a child shall not be photographed after he is taken into custody unless the case is transferred to another court for prosecution.

N.D. Cent. Code § 27-20-53.

OHIO

§ 2151.313 *Fingerprints and photographs.*

(A) No child shall be fingerprinted or photographed in the investigation of a crime without the consent of the judge, except as provided in this section. Fingerprints of a child may be taken by law enforcement officers investigating the commission of an act which would be a felony if committed by an adult when there is probable cause to believe that the child may have been involved in the felonious act being investigated. Unless otherwise ordered by the court, originals and all copies of such fingerprints or photographs shall be delivered to the juvenile court after use for their original purpose for such further use and disposition as the court directs.

Fingerprints and photographs of a child shall be retained for one year after the date taken. If, within the one-year period, no complaint is filed or one is filed and dismissed and no other complaint is filed the fingerprints and photographs shall be removed from the file and destroyed.

(B) Until they are delivered to the juvenile court, the originals and copies of the fingerprints, photographs, and other records of a child that are obtained pursuant to division (A) of this section shall:

(1) Be used only for the investigation of the crime for which they were originally obtained;

(2) Be released only to:

(a) State or local officers;

(b) A court that has jurisdiction of the child's case under Chapter 2151 of the Revised Code.

Ohio Rev. Code Ann. § 2151.313.

OKLAHOMA

Section 1127. (a) A record of any child under this act, or any evidence given in such cause, shall not in any civil, criminal or other cause or proceeding in any court be lawful or proper evidence against the child for any purpose whatever, except in subsequent cases against the same child under this act. The records of law enforcement officers concerning juveniles shall be maintained separate from records of arrests, and shall not be open to public inspection, or their contents disclosed, except by order of the court.

(b) If latent fingerprints are found during the investigation of an offense, a law enforcement officer may fingerprint a child for the purpose of comparing his fingerprints with the latent fingerprints, and the fingerprints may be sent to a law enforcement agency for comparison purposes only. If the comparison is negative or if the court finds that the child did not commit the alleged offense, the child's fingerprint card and all copies of his fingerprints shall be destroyed immediately after the juvenile proceeding is completed. If the court finds that the child committed the alleged offense, or if the commission of the offense is admitted or not contested by the juvenile and his parents pursuant to an informal adjustment, deflection or diversion of the referral, his fingerprints may be retained separate from the fingerprints of persons who are not under this chapter either in a central state depository, or in a local district court file which local depository may be a duly constituted law enforcement agency or agencies designated by the presiding judge of the juvenile docket of the district court shall prescribe rules and regulations governing the acquisition, maintenance, release and utilization of such fingerprint cards, and provided further that the wilful violation of such court prescribed rules and regulations shall constitute an act of contempt of court by the persons committing, or authorizing the act or omission constituting the violation, or supervising the fingerprinting operation. Fingerprints obtained and maintained pursuant hereto may be used only by law enforcement officers for comparison purposes in connection with the investigation of a crime, or to establish identity in instances of death, serious illness, runaways, or emergency. No rule or regulation of any court or judge thereof made pursuant to the authority herein vested shall operate to impair the generation, maintenance or utilization of juvenile fingerprints for the purposes herein authorized.

(c) No adjudication by the court upon the status of a child in a juvenile proceeding shall operate to impose any of the civil disabilities ordinarily resulting from conviction of a crime, nor shall a child be deemed a criminal by reason of such adjudication, nor shall any arrest or detention under this chapter or any adjudication in a juvenile proceeding be deemed a detention or an arrest or conviction for purposes of employment, civil rights, or any statute, regulation, license, questionnaire, application, or any other public or private purposes; provided, however, that nothing herein shall prevent an adjudication in a juvenile proceeding (1) from being considered in connection with the sentencing of said child should he be convicted in a criminal action after he has become an adult, or (2) from being used to show the bias, if any, of the child should he be a witness in any civil or criminal action either while a child or after he has become an adult.

OKLAHOMA
(continued)

(d) Subsections (a) and (b) of this section shall not apply to the use, confidentiality and disposition of the records and fingerprints of a person who is sixteen or seventeen years old and charged with one of the crimes enumerated in Section 1104.2 of this title.
10 Okla. St. Ann. § 1127.

OREGON

419.584 *Photographing and fingerprinting child; conditions; custody of record; confidentiality, use and destruction of records.*

(1) A child may be photographed or fingerprinted by a law enforcement agency:

(a) Pursuant to a search warrant;

(b) According to laws concerning adults if the child has been transferred to criminal court for prosecution;

(c) If a child is taken into custody for the commission of an act which if committed by an adult would constitute a felony and the child's photograph or fingerprints are needed to complete the investigation of a crime;

(d) Upon consent of both the child and his parent after advice that they are not required to give such consent; or

(e) By order of the juvenile court.

(2) A child may be photographed or fingerprinted after he has been found to be within the jurisdiction of the juvenile court for an act which if committed by an adult would constitute a felony.

(3) Fingerprint and photograph files or records of children shall be kept separate from those of adults, and fingerprints and photographs known to be those of a child shall be maintained on a local basis only and not sent to a central state or federal depository.

(4) Fingerprint and photograph files or records of a child shall be kept separate from the records and files of adults and shall be open to inspection only by, or the contents disclosed only to, the following:

(a) Public agencies for use in investigation or prosecution of crimes and of conduct by a child which if committed by an adult would be an offense, provided that a law enforcement agency may provide information to another agency only when the information is pertinent to a specific investigation by that agency;

(b) The juvenile department and the juvenile court having the child before it in any proceeding;

(c) Caseworkers and counselors taking action or otherwise responsible for planning and care of the child;

(d) The parties to the proceeding and their counsel;

(e) A criminal court to which jurisdiction of the child has been transferred;

(f) A criminal court for the purpose of a presentence report or other dispositional proceeding following conviction of a criminal offense; and

(g) The victim of an act or behavior described under paragraph (a), (b), (c) or (f) of subsection (1) of ORS 419.476 or the victim's parent, guardian, personal representative or subrogee, when the court orders disclosure of those portions of the records necessary to identify the child committing the act or behavior and identifying the apparent extent of the child's involvement in the act or behavior related to the victim's alleged loss or damage.

(5) Fingerprint and photograph files and records of a child shall be destroyed when the juvenile court orders expunction of a child's record pursuant to ORS 419.805.

OREGON
(continued)

(6) (a) Fingerprint and photograph files of a child who is adjudicated and found not to be within the jurisdiction of the juvenile court for an act, which if committed by an adult would constitute a felony or a misdemeanor, shall be destroyed by the officer charged with the maintenance of those files within 60 days from the date of adjudication.

(b) Fingerprint and photograph files of a child who is not adjudicated and found to be within the jurisdiction of the juvenile court for an act, which if committed by an adult would constitute a felony or a misdemeanor, within two years from the date on which his fingerprints or photograph were obtained, shall be destroyed by the officer charged with the maintenance of those files.

Ore. Rev. Stat. § 419.584.

TENNESSEE

37-253. Fingerprints and photographs--Use of--When destroyed.

(a) No child shall be fingerprinted or photographed in the investigation of delinquent acts without the permission of the court.

(b) Fingerprint files of children may be inspected by law enforcement officers when necessary for the discharge of their official duties. Other inspections may be authorized by the court in individual cases upon a showing that it is necessary in the public interest.

(c) Fingerprints of a child shall be removed from the file and destroyed if:

(1) a petition alleging delinquency is not filed, or the proceedings are dismissed after either a petition is filed or the case is transferred to the juvenile court as provided in 37-209, or the child is adjudicated not be a delinquent child; or

(2) the child reaches twenty-one (21) years of age and there is no record that he committed a criminal offense after reaching sixteen (16) years of age, unless such fingerprints were obtained on an alleged charge which if committed by an adult would be a felony.

(d) If latent fingerprints are found during the investigation of an offense and a law enforcement officer has probable cause to believe that they are those of a particular child he may fingerprint the child regardless of age or offense for purposes of immediate comparison with the latent fingerprints. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the child is not referred to the court or the case is dismissed, the fingerprints shall be immediately destroyed.

Term. Code Ann. § 37-253.

TEXAS

Sec. 51.15. Fingerprints and Photographs.

(a) No child may be fingerprinted without the consent of the juvenile court except as provided in Subsection (f) of this section. However, if a child 15 years of age or older is referred to the juvenile court for a felony, his fingerprints may be taken and filed by a law-enforcement officer investigating the case.

(b) No child taken into custody may be photographed without the consent of the juvenile court unless the child is transferred to criminal court for prosecution under Section 54.02 of this code.

(c) Fingerprint and photograph files or records of children shall be kept separate from those of adults, and fingerprints or photographs known to be those of a child shall be maintained on a local basis only and not sent to a central, state or federal depository.

(d) Fingerprint and photograph files or records of children are subject to inspection as provided in Subsections (a) and (d) of Section 51.14 of this code.

(e) Fingerprints and photographs of a child shall be removed from files or records and destroyed if:

(1) a petition alleging that the child engaged in delinquent conduct or conduct indicating a need for supervision is not filed, or the proceedings are dismissed after a petition is filed, or the child is found not to have engaged in the alleged conduct; or

(2) the person reaches 18 years of age and there is no record that he committed a criminal offense after reaching 17 years of age.

(f) If latent fingerprints are found during the investigation of an offense, and a law-enforcement officer has reasonable cause to believe that they are those of a particular child, it otherwise authorized by law, he may fingerprint the child regardless of the age or offense for purpose of immediate comparison with the latent fingerprints. If the comparison is negative, the fingerprint card and other copies of the fingerprints taken shall be destroyed immediately. If the comparison is positive, and the child is referred to the juvenile court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition. If the child is not referred to the court, the fingerprint card and other copies of the fingerprints taken shall be destroyed immediately.

(g) When destruction of fingerprints or photographs is required by Subsection (e) or (f) of this section, the agency with custody of the fingerprints or photographs shall proceed with destruction without judicial order. However, if the fingerprints or photographs are not destroyed, the juvenile court, on its own motion or on application by the person fingerprinted or photographed, shall order the destruction as required by this section.

V.T.C.A., Family Code § 51.15.

UTAH

78-3a-55. *Court records--Inspection--Fingerprinting child prohibited, exception.--*

The court and the probation department shall keep such records as may be required by the board and the presiding judge. Court records shall be open to inspection by the parents or guardian, other parties in the case, the attorneys, and agencies to which custody of a child has been transferred; and with the consent of the judge, court records may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies. Probation officers' records and reports of social and clinical studies shall not be open to inspection, except by consent of the court given pursuant to rules adopted by the board.

Without the consent of the judge, no fingerprints shall be taken of any child taken into custody, unless the case is transferred for criminal proceedings.

VERMONT

664. *Fingerprints, photographs.*

(a) Fingerprint files of minors under the jurisdiction of the juvenile court shall be kept separate from those of adults under special security measures limited to inspection by law enforcement officers only on a need-to-know basis unless otherwise authorized by the court in individual cases.

(b) Copies of fingerprints shall be maintained on a local basis only and not sent to central, state or federal depositories except in national security cases.

(c) Fingerprints of such minors shall be removed and destroyed when:

(1) The petition alleging delinquency with respect to which such fingerprints were taken does not result in an adjudication of delinquency;

(2) When the minor reaches his eighteenth birthday and there has been no record of a criminal offense by the child after reaching his sixteenth birthday.

(d) If latent prints are found at the scene of an offense and there is reason to believe that a particular child was involved, he may be fingerprinted for purposes of immediate comparison, and if the result is negative, the fingerprint card shall be immediately destroyed.

(e) No photograph shall be taken of any child when taken into custody without the consent of the judge unless the case is transferred for criminal proceeding.

(f) Any violation of this section shall be deemed a misdemeanor.

VIRGINIA

§ 16.1-299. Fingerprints and photographs of children.--

A. Fingerprints and photographs of a child fifteen years of age or older who is charged with a delinquent act which would be a felony if committed by an adult may be taken and filed by law-enforcement officers. Fingerprints of a child thirteen years of age or older who is charged with malicious wounding as provided in § 18.2-52, use of a firearm in committing a felony as provided in § 18.2-53.1, attempted poisoning as provided in § 18.2-54.1, extortion as provided in § 18.2-59, robbery, rape as provided in § 18.2-61, arson and related crimes as provided in §§ 18.2-77 through 18.2-88 or murder may be taken and filed by law-enforcement officers.

B. A child may be fingerprinted regardless of age or offense if he has been taken into custody for a violation of law, and a law-enforcement officer has determined that there is probable cause to believe that latent fingerprints found during the investigation of an offense are those of such child.

C. The fingerprints and photographs authorized in subsections A and B shall be retained or disposed of as follows:

1. If a petition is not filed against a child whose fingerprints or photographs have been taken in connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed.

2. If the juvenile court or the circuit court, pursuant to a transfer, waiver or appeal, finds a child not guilty of a charge of delinquency, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed. Provided, however, all fingerprints and photographs of a child who is less than thirteen years of age and who is found guilty of a delinquent act shall also be destroyed.

3. If the court finds that a child thirteen years of age or older has committed a delinquent act, the fingerprints may be retained in a local file pursuant to § 16.1-301.

4. If a child fifteen years of age or older is certified to the circuit court pursuant to § 16.1-269 and is found guilty as an adult of the offense charged, or if a child thirteen years of age or older is found guilty of malicious wounding as provided in § 18.2-52, use of a firearm in committing a felony as provided in § 18.2-53.1, attempted poisoning as provided in § 18.2-54.1, extortion as provided in § 18.2-59, robbery, rape as provided in § 18.2-61, arson and related crimes as provided in §§ 18.2-77 through 18.2-88 or murder in a juvenile court and is adjudicated delinquent, copies of his fingerprints shall be forwarded to the Central Criminal Records Exchange.

Va. Code Ann. § 16.1-299.

WASHINGTON

13.04.130 Fingerprinting or photographing juvenile.

(1) Neither the fingerprints nor a photograph of any juvenile may be taken without the consent of juvenile court, except as provided in subsection (2) of this section and RCW 10.64.110.

(2) A law enforcement agency may fingerprint and photograph a juvenile arrested for a felony offense. If the court finds a juvenile's arrest for a felony offense unlawful, the court shall order the fingerprints and photographs of the juvenile taken pursuant to that arrest expunged, unless the court, after a hearing, orders otherwise.
R.C.W.A. § 13.04.130.

WEST VIRGINIA

§ 49-5-17. *Expungement of records; no discrimination.*

(a) On the Monday following the first Tuesday of every year, the court shall orally direct the expungement of all law-enforcement files and records, including fingerprints, court files and records of government and private agencies regarding every person having juvenile records in the court with regard to whom juvenile jurisdiction has terminated. As used in this section, "expungement" means the physical destruction of files and records.

(b) The court, upon its own motion or upon the motion of a child or the child's parent or custodian, may at any time order the expungement of law-enforcement files and records, including fingerprints, court files and records pertaining to any juvenile proceeding which does not result in an adjudication of delinquency.

(c) Notice of the expungement order shall be sent to every agency which the court has reason to believe may have information concerning the files and records of the child. An agency receiving notice of the expungement order shall transmit copies of the notice to all agencies to which it has forwarded information concerning the law-enforcement files and records, including fingerprints, court files and records of the child.

(d) After the child's eighteenth birthday or after termination of juvenile jurisdiction, whichever is later, a proceeding conducted under this chapter shall be deemed never to have occurred. The child, the child's parent or custodian, the court, law-enforcement agencies and other governmental and private agencies, in response to a request for record, court record or record of proceedings or arrests with respect thereto does not exist.

(e) No individual, firm, corporation or other entity shall, on account of a person's prior involvement in a proceeding under this article, discriminate against any person in access to, terms of, or conditions of employment, housing, education, credit, contractual rights or otherwise.
W. Va. Code Ann. § 49-5-17.

WISCONSIN

(b) Photographing and fingerprinting. A juvenile may be photographed or fingerprinted only when there is reason to believe the juvenile has committed an act which if committed by an adult would be classified as a felony; when the procedure will substantiate allegations that the juvenile is abused, neglected or dependent; or when the procedure will identify a juvenile alleged to be a habitual runaway. Fingerprints of juveniles alleged to be abused, neglected, dependent or runaways may not be forwarded to a central agency under §§ 165.83 and 165.84.

WYOMING

§ 14-6-240. *When child may be fingerprinted or photographed; retention or destruction of fingerprint records; records to be separate from those of adults; disclosure.*

(a) No child shall be fingerprinted or photographed by a law enforcement agency or peace officer unless:

(i) The child has been formally charged with having committed a felony;

(ii) A petition has been filed in juvenile court alleging the child with having committed a delinquent act which would constitute a felony; or

(iii) Latent fingerprints are found during the investigation of a criminal offense and a peace officer has reasonable grounds to believe the fingerprints are those of the child against whom a petition has been filed in juvenile court alleging the commission of a delinquent act.

(b) Fingerprints and photographs of a child found to have committed a delinquent act which would be a felony if committed by an adult may be retained in a local law enforcement agency file and in the Wyoming division of criminal identification files. If the matter does not result in a consent decree or an adjudication that the child was a delinquent for having committed an act constituting a felony, the court shall order all records pertaining to the matter destroyed.

(c) Repealed by Laws 1979, ch. 18, § 2.

(d) Law enforcement records of a child against whom a petition is filed under this act shall be kept separate from records and files of adults and shall not be open to public inspection nor disclosed to the news media without the written consent of the court. The court may release to the news media the name of a child who has been adjudicated a delinquent for a second or subsequent time pursuant to a petition filed under this act alleging the commission of a delinquent act constituting a felony. (Laws 1971, ch. 255, § 41; 1976, ch. 3, § 1; 1978, ch. 25, § 1; 1979, ch. 18, §§ 1, 2.)

Wyo. Stat. Ann. § 16-6-240.

FINGERPRINTING AND PHOTOGRAPHING

OF JUVENILES:

1980 STATUTES ANALYSIS

LEGISLATION REVIEWED FOR THIS REPORT IS CURRENT THROUGH:

| | | | |
|----|--------------------------|----|--------------------------|
| AL | 1981 Regular Session | MT | 1979 Legislative Session |
| AK | January 8, 1981 | NE | 1981 Legislative Session |
| AZ | January 1, 1982 | NV | December 31, 1980 |
| AR | December 31, 1980 | NH | December 31, 1980 |
| CA | December 31, 1979 | NJ | March 4, 1981 |
| CO | January 1, 1982 | NM | 1980 Legislative Session |
| CT | 1980 Legislative Session | NY | March 1, 1981 |
| DE | September 9, 1980 | NC | June 4, 1980 |
| DC | February 24, 1981 | ND | December 31, 1980 |
| FL | April, 1981 | OH | March 10, 1981 |
| GA | January 1, 1981 | OK | December 31, 1979 |
| HI | December 31, 1980 | OR | December 31, 1980 |
| ID | January 1, 1981 | PA | February 26, 1981 |
| IL | January 1, 1981 | RI | September Session, 1979 |
| IN | September 30, 1980 | SC | March 10, 1981 |
| IA | February 24, 1981 | SD | 1979 Legislative Session |
| KS | December 31, 1980 | TN | 1979 Legislative Session |
| KY | December 31, 1981 | TX | December 31, 1980 |
| LA | March 4, 1981 | UT | 1981 Legislative Session |
| ME | December 31, 1980 | VT | December 31, 1980 |
| MD | 1980 Legislative Session | VA | December 31, 1980 |
| MA | February 24, 1981 | WA | January 1, 1981 |
| MI | June 4, 1981 | WV | 1980 Legislative Session |
| MN | December 31, 1980 | WI | March 19, 1981 |
| MS | January 4, 1982 | WY | 1980 Legislative Session |
| MO | March 10, 1981 | | |

END