



Attorney General of New Mexico

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Attorney General

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Chief Deputy Attorney General

January 16, 2009

The Honorable Kari E. Brandenburg
Second Judicial District Attorney
520 Lomas Blvd. NW
Albuquerque, NM 87102

Re: Request for Opinion - Jurisdiction of Juvenile Traffic Offenses

Dear District Attorney Brandenburg:

You have requested our opinion regarding the jurisdiction over traffic offenses which are not specifically enumerated acts as set forth in NMSA 1978, Section 32A-2-3, yet are committed in conjunction with delinquent acts for which the Children's Court does have jurisdiction. Based on our examination of the relevant New Mexico statutes, opinions and case law authorities, and on the information available to us at this time, we conclude that absent express statutory authority, the Children's Court Attorneys do not have the authority to prosecute traffic offenses committed by a child that arise out of the same occurrence as a delinquent act for which the Children's Court has jurisdiction.

The Children's Court is a division of the district court, whose power is established by the New Mexico Constitution. See NMSA 1978, § 32A-1-5 (1993). The Constitution empowers the district courts with "original jurisdiction in all matters and causes not excepted by this constitution, and such jurisdiction of special cases and proceedings as may be conferred by law." NM Const., Art. VI, § 13. However, the New Mexico Court of Appeals has held that the Children's Court is a court of limited jurisdiction, and thus only permitted to do what is specifically authorized by the statute. See *In re Doe III*, 87 N.M. 170, 172, 531 P.2d 218, 200 (Cl.App.1975); *Health & Social Services Department v. Doe*, 91 N.M. 675, 677, 579 P.2d 801, 803 (Cl.App.1978). Thus, the power of the Children's Court is that as defined by statute. See NMSA 1978, § 32A-1-8 (2005).

NMSA 1978, Section 32A-2-3 (as amended through 2005) defines a "delinquent act" in such a way as to infer jurisdiction upon the Children's Court for only enumerated traffic offenses. However, NMSA 1978, Section 32A-2-29, (2003) contains an exception that extends the authority of the Children's Court to consider all traffic offenses when coupled with one of the

aforementioned enumerated traffic offenses. Conversely, Section 32A-2-29(A) expressly reads that the Metropolitan Court shall have jurisdiction over all traffic offenses, except when the traffic offense is one of those enumerated in § 32A-2-3(A)(1) or if they arise out of the same occurrence as one of those traffic offenses enumerated in § 32A-2-3(A)(1). Thus, the Children's Court clearly has jurisdiction over the specifically enumerated traffic offenses in subsection (A)(1) and those arising out of the same occurrence of a specifically enumerated traffic offense in (A)(1). Therefore, the question arises as to whether the Children's Court has jurisdiction over traffic offenses arising out of the same occurrence as a delinquent act that is not an enumerated traffic offense.

One rule of statutory construction is to interpret statutes in a way that will not render their application unreasonable nor defeat the intended objective of the Legislature. See State ex rel. Newsome v. Alarid, 90 N.M. 790, 568 P.2d 1236 (1977). The Legislature, in enacting §§ 32A-2-3 and 32A-2-29, intended to create separate, distinct judicial authority. Because Section 32A-2-29 restricts the Children's Court jurisdiction to violations listed in subsection (A)(1) and traffic offenses arising out of the same occurrence as a subsection (A)(1) violation, the Children's Court does not have jurisdiction to hear traffic offenses allegedly committed by a child that arises out of a delinquent act that is within the Children's Court jurisdiction, but is not an enumerated Motor Vehicle Code violation as listed in subsection (A)(1). Thus, absent express statutory authority, the Children's Court does not have jurisdiction over traffic offenses that arise out of the same occurrence as a delinquent act under § 32A-2-3(A)(2)-(7).

Your request to us was for a formal Attorney General's Opinion on the issues discussed within. Such an opinion is a public document available to the general public. Although we are providing you our legal advice in the form of a letter instead of an Attorney General's Opinion, we believe this letter is also a public document, not subject to the attorney-client privilege. Therefore, we may provide copies of this letter to the public. If there are any further questions that I can assist you with, do not hesitate to contact me.

Sincerely,

TANIA MAESTAS

Assistant Attorney General

cc: Albert J. Lama, Chief Deputy Attorney General
The Honorable Victor Valdez, Metropolitan Court Judge