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October 16, 1986

Mr. Lynn R. Nelson
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RE: Juvenile Violators of the DUI Laws
Our Control No. 07347; G160.1

THIS IS NOT AN OFFICIAL ATTORNEY GENERAL OPINION
AND IS SUBMITTED SOLELY TO PROVIDE LEGAL GUIDANCE

Dear Mr. Nelson:

You have requested legal guidance as to whether minors charged with DUI violations under Idaho Code § 18-8004 must be prosecuted within the provisions of the Youth Rehabilitation Act [hereafter "YRA"], Idaho Code §§ 16-1801 through 16-1837, or whether they may be tried as adults. For reasons that are stated below, we conclude that the provisions of the DUI statute, as well as those within the YRA, give prosecutors sufficient discretion to proceed against juveniles charged with DUI either as minors or as adults.

In analyzing the provisions of the YRA regarding this question, Idaho Code § 16-1803 of that Act specifically states that juvenile courts have exclusive jurisdiction over crimes committed by minors when:

1. The crime was prohibited by state or local law by reason of minority only; or
2. The crime was a violation of state or local law which would have been a crime if committed by an adult, except traffic, watercraft, and fish and game violations.

Idaho Code § 16-1803 goes on to further exclude juvenile violations involving beer, wine, or other alcohol or tobacco laws from the exclusive jurisdiction of juvenile courts.

It should be noted and emphasized that in excluding certain violations from the exclusive grant of jurisdiction juvenile courts have over crimes committed by minors, the legislature specifically mentioned one exclusion -- traffic offenses. The YRA does not define exactly what the term "traffic violation" refers to, nor does the Idaho Code contain a definition of that term. For illustrative purposes, the Idaho Driver's Manual (1985) does define the term "moving traffic violation" as "a violation of any law or ordinance affecting the use of streets or highways that regulate the safe movement of vehicles and pedestrians." While this language is less than a direct legislative definition of the term involved, it is helpful in illustrating what violations may be considered to be traffic violations under the exception contained in Idaho Code § 16-1803 of the YRA.

The provisions of the YRA must be read in conjunction with the DUI statutes in resolving this question. Within Idaho Code § 18-8005(7), the legislature stated that a minor may be prosecuted for a DUI violation under Title 16 of the Idaho Code (the YRA). While admittedly Idaho Code § 18-8005(7) could have been more explicit in spelling out how the legislature expected to see minors charged with DUIs prosecuted, it is sufficiently clear to resolve the above questions. The operative word, "may," within Idaho Code § 18-8005(7) gives a prosecutor the option of referring a case involving a minor charged with DUI to a juvenile court or retaining jurisdiction and trying the minor as an adult.

As can be seen from an examination of the two statutes involved in this question, neither the DUI statute nor the YRA specifically state under which provisions juveniles charged with DUI violations are to be prosecuted. While the YRA does exclude

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the category of "traffic violations" from its grant of exclusive jurisdiction over crimes committed by minors, DUI statute Idaho Code § 18-8005(7) specifically states that minors may be prosecuted within Title 16 of the YRA. If that is viewed as a conflict, then the DUI statute containing Idaho Code § 18-8005(7) should be considered overriding as it was adopted after the implementation of the YRA.

On that basis, we have come to the conclusion that the DUI statute language in Idaho Code § 18-8005(7) gives prosecutors sufficient discretion in charging minors involved in DUI violations either as adults or within juvenile court. With this statutory discretion, prosecutors should carefully consider the facts and circumstances of each individual case before deciding in which forum to proceed. The important point to be made is that neither the provisions of the DUI statutes nor the YRA prohibit prosecutors from proceeding under either of those statutes in prosecuting minors for DUI violations.

Nothing in this opinion is intended to evidence a favoritism toward proceeding against minors charged with DUI violations under either Title 18 or Title 16. This is a decision each prosecutor must make based on the facts and circumstances of the particular case at hand. Neither have I discussed any equal protection violations, if any, that are inherent in prosecutorial discretion in choosing to proceed against minors as adults versus within the juvenile court system.

If you have any further questions involving this opinion or other questions regarding this issue, please feel free to contact me.

Sincerely,

David R Minert

David R. Minert
Deputy Attorney General
Criminal Justice Division

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