

JUVENILE COURTS:  
CHILDREN: TRAFFIC  
VIOLATIONS:

When children sixteen years of age are charged with traffic ordinance violations in local police courts of cities, towns, and villages of St. Louis County, said police courts lack the power to hear and determine said cases, but must certify them to the juvenile court of said county for disposition.



March 5, 1953

Honorable Stanley Wallach  
Prosecuting Attorney of  
St. Louis County  
Clayton, Missouri

Dear Sir:

This is to acknowledge receipt of your request for a legal opinion of this department, which request reads as follows:

"We have had inquiries from various incorporated cities, towns and villages of this County, asking if their respective local police court can adjudicate charges against juveniles, age 16, for violations of their traffic ordinances, or shall same be certified to the St. Louis County Juvenile Court for disposition."

From the opinion request it appears that the inquiry concerns one subject, namely, the court having jurisdiction of the persons and offenses mentioned. That is, whether the various local police courts of the cities, towns, and villages of St. Louis County, in which courts, children under sixteen years of age are charged with violations of traffic ordinances of said cities, towns, and villages or whether such cases must be transferred to the juvenile court of said county for disposition.

It appears that St. Louis County is a county belonging to class one, consequently, the provisions of Sections 211.010 to 211.300, RSMo 1949, relating to delinquent children, and juvenile courts are applicable to St. Louis County.

Paragraph 1, Section 211.010, states that the provisions of Section 211.010 shall apply to all children under seventeen years of age, and reads as follows:

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"1. Sections 211.010 to 211.300 shall apply to children under the age of seventeen years not now or hereafter inmates of any state institution or any institution incorporated under the laws of the state for the care and correction of delinquent children; provided, that when jurisdiction has been acquired under the provisions hereof over the person of a child, such jurisdiction shall continue, for the purpose of sections 211.010 to 211.300, until the child shall have attained its majority; but nothing in sections 211.010 to 211.300 shall prevent the juvenile court from inflicting a punishment which shall extend beyond the age of majority in cases where the delinquent shall be convicted of a crime, the punishment of which under the statutes of this state, when committed by persons over the age of eighteen years, is death or imprisonment in the penitentiary for a term of not less than ten years."

Paragraph 3, defines the term "delinquent children" and reads as follows:

"3. The word 'delinquent child' shall include any child under the age of seventeen years who violates any law of this state, or any city or village ordinance, \* \* \*."

(Underscoring ours.)

Under the provisions of Section 211.020, the juvenile courts in class one and two counties, and the City of St. Louis shall have original jurisdiction of all juvenile cases coming within the terms of Sections 211.010 to 211.300, supra. Section 211.020, reads as follows:

"The circuit courts in counties of the first and second classes shall have original jurisdiction of all cases coming within the terms of sections 211.010 to 211.300. The city of St. Louis shall be considered a county of the first class. A courtroom, to be designated the juvenile courtroom, shall be provided or assigned by the circuit court for the hearing of such cases; and the proceedings of the court shall be entered in books to be kept for that purpose and known as the juvenile records, and the court may for convenience be called the juvenile court. The clerk of the circuit court shall act as the clerk of

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the juvenile court. The practice and procedure prescribed by law for the conduct of criminal cases shall govern in all proceedings under sections 211.010 to 211.300 in which the child stands charged with the violation of the criminal statutes of the state, and in such proceedings the child, his parent, or any person standing in loco parentis to him may on his behalf demand a trial by jury. In all other cases the trial shall be before the court without a jury, and the practice and procedure customary in proceedings in equity shall govern except where otherwise provided herein."

From the provisions of above quoted section it is apparent that all proceedings brought to determine whether a child under seventeen years is a neglected or a delinquent child, within the meaning of Section 211.010, supra, are required to originate in the circuit courts of first and second class counties, and the City of St. Louis. The divisions of said courts to which such matters have been committed, by said statute, have for convenience, been referred to as juvenile courts.

An examination of the various statutes relating to neglected and delinquent children discloses that the juvenile court of said counties not only have original jurisdiction in those matters referred to in the preceding paragraph, but that the court has jurisdiction of all cases when a child under seventeen is arrested for, or is charged with certain offenses, which might constitute acts of delinquency. Section 211.060, RSMo 1949, covers matters of this kind and reads as follows:

"When in any such county a child under the age of seventeen years is arrested with or without warrant, such child shall, instead of being taken for trial before a magistrate, or police magistrate, or judge of any court now or hereafter having jurisdiction of the offense charged, be taken directly before such juvenile court; or if the child shall have been taken before a magistrate or a police magistrate or judge of such other court, it shall be the duty of said magistrate or police magistrate or judge to transfer the case to such juvenile court, and of the officer having the child in charge to take such child before said court, and the said court shall proceed to hear the case in accordance with the law for the trials of such offenses."

(Underscoring ours.)

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Said section provides for different situations to which said section is applicable, and which are:

1. When the child is arrested with or without a warrant.
2. When he is arrested and is taken before one of the courts mentioned, and having jurisdiction of the offense, or when the child is charged with an offense in one of the courts mentioned.

In the first instance, the arresting officer or person having custody of the child at the time of the arrest, shall take him before the juvenile court, and not before the court having jurisdiction of the offense.

In the second instance the court before whom the child is taken, or the court in which a charge against said child is pending shall transfer the case to the juvenile court for disposition. It is our thought that the section is applicable in every instance when a child under seventeen is arrested, or is charged in any of the courts referred to for an offense which is criminal or non-criminal in nature.

When it is remembered that the primary purpose for which the delinquent children statutes were enacted was to provide a remedy and a method of procedure by which such children can be given protection, discipline, and training necessary to enable them to become good citizens, rather than to prosecute and punish them for offenses committed against the laws, it is apparent that in the enactment of said statutes, it was obviously the intention of the legislature that when any arrest is made, or charges, (whether civil or criminal) have been filed in the courts mentioned, against a child under seventeen, it is the duty of the person having custody of said child to take him before the juvenile court, and it is the duty of the court where the charge is pending to transfer the case to the juvenile court of the proper county or city for disposition. Such is our construction of Section 211.060 and 211.080, supra.

Therefore, in view of the foregoing, it is our further thought that the local police courts of the cities, towns and villages of St. Louis County, Missouri, in which children sixteen years of age are charged with traffic ordinance violations lack the power to hear and determine said cases, and must transfer all of them to the juvenile court of said county for disposition.

#### CONCLUSION

It is therefore, the opinion of this department that the local police courts of the cities, towns, and villages of St. Louis County in which children sixteen years of age are charged with violations

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of traffic ordinances of said municipalities, lack the power to hear and determine said cases, but must certify them to the juvenile court of said county for disposition.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Paul N. Chitwood.

Very truly yours,

JOHN M. DALTON  
Attorney General

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