

payment of the fine, but must be given credit at the rate of \$3.00 a day, and may be paroled on condition that he pay the fine.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: EUGENE T. URBANIAK
Deputy Attorney General

MARCH 19, 1959

HONORABLE HAROLD J. ASHBY, *Chairman*
State Parole Board
State Office Building
Trenton, New Jersey

MEMORANDUM OPINION 1959—P-2

DEAR MR. ASHBY:

In our letter of October 21, 1958, we advised you that the jurisdiction of the Governor under his pardoning power extended to motor vehicle offenses although we recommended that the pardoning power not be exercised in such cases. You have asked for further advice as to whether the pardoning power of the Governor also encompasses the offense of juvenile delinquency.

A finding by the Juvenile & Domestic Relations Court that a person is guilty of juvenile delinquency is not a conviction, nor is the guilty person considered a criminal. *N.J.S. 2A:4-39*. Our statutes deem a child under the age of 16 years to be incapable of committing a crime. *N.J.S. 2A:85-4*. Civil disabilities ordinarily imposed by conviction of a crime are not imposed upon those adjudged guilty of juvenile delinquency. *N.J.S. 2A:4-39*; *State v. De Paola*, 5 N.J. 1, 18 (1950) (adjudication of juvenile delinquency "not a conviction of crime such as may be shown to attack the credibility of a witness * * *").

However, as we stated in our prior letter to you, the pardoning power is not limited strictly to criminal cases, but also extends to those violations which are considered quasi-criminal. It, in effect, extends to every violation of State law. *Brown v. Walker*, 161 U.S. 591 (1896); 67 *C.J.S. Pardons*, § 4, p. 560 (1950). A pardon is historically considered as the remitting or forgiving of offenses against the State. *Cook v. Freholders of Middlesex Co.*, 26 N.J.L. 326, 328 (Sup. Ct. 1857), affirmed 27 N.J.L. 637 (E. & A. 1858). Though one found guilty of juvenile delinquency has not committed a crime nor is to be considered a criminal, the finding of guilt does impose upon the person involved the disciplinary jurisdiction of the State. The acts for which a person may be found guilty of juvenile delinquency are those which would otherwise constitute violations of State laws triable in the adult courts. *N.J.S. 2A:4-14*.

Since a finding of juvenile delinquency is predicated upon a violation of State law, although the proceedings subsequent to the commission of such a violation are civil in nature, we see no reason for excluding the offense of juvenile delinquency from the operation of the pardoning power of the Governor.

Sincerely yours,

DAVID D. FURMAN
Attorney General