

NMDPS - CHILD ABUSE - SPEEDING

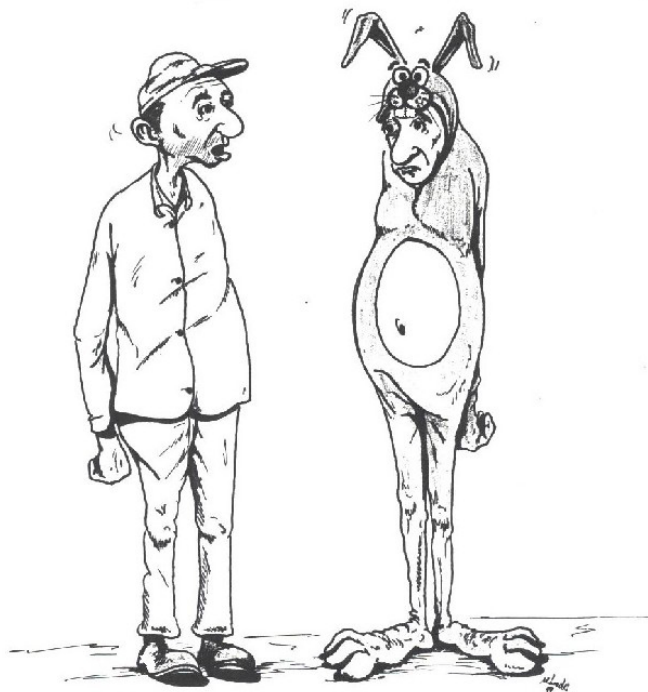
As serious as child abuse is, and as concerned as we are about it, there are limits as when to charge it. Consider the following: Defendant, with three children in his car, was driving down Main Street in Farmington. Radar clocked him going 72 in a 35 and police began pursuit. Defendant slowed down but continued driving. At one intersection he didn't use his turn signals and at another he didn't come to a complete stop.

When police finally blocked him in, he took off running but was soon apprehended. He was convicted of four misdemeanor violations: (1) speeding; (2) resisting, evading or obstructing an officer; (3) failure to use turn signals; and (4) failure to obey traffic control devices. Although found not guilty of DWI, he was convicted of felony child abuse. NMSA 1978, Section 30-6-1.

But does speeding, and regular traffic violations, add up to felony child abuse? Court of Appeals said no. The State has to show that Defendant caused children under the age of eighteen to be placed in a situation that may have endangered their life or health **and did so with reckless disregard for their safety.** But here the children were restrained and there was no evidence that Defendant was wholly indifferent or acting with a reckless disregard for their safety.

Quite simply, speeding alone does not mean a person is showing a reckless disregard for the rights of others or is recklessly operating a motor vehicle. Had Defendant been convicted of DWI, however, the felony child abuse charge would have been upheld. State v. Clemonts (2006). - - - ADA Elliott

NARCOTICS DIVISION



Dis ain't what I meant when I said we work in disguises.