

Opinion No. 55-6195

June 16, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. W. P. Kearns, Jr., Assistant District Attorney, Eighth Judicial District, Raton, New Mexico

Replying to your letter of June 1st requesting an opinion concerning the housing of wards of the New Mexico Industrial School in the Colfax County Jail, we would express the following views concerning that matter.

It is our opinion that a ward of the New Mexico Industrial School should not be housed in the Colfax County Jail. We call your attention to Section 42 of Chapter 205 of the 1955 New Mexico Session Laws. That section provides:

"That whenever any juvenile or any person under twenty-one years of age admitted or sentenced to the New Mexico Industrial School for Boys to be an improper subject for reformation and instruction at said School, and who, if allowed to remain, would prevent or retard the reformation and instruction of the other boys at said School, the Board shall report such finding to the Court having committed or sentenced any such person and the court shall then refer the matter to the District Attorney for the district from which he was committed, to be dealt with as by law provided."

This section of the statute appears to us to have been provided for such a situation as you outline in your letter. Strength is added to this transaction when you consider Section 35 of Chapter 205, Laws of 1955, granting the Judge broad powers of disposition of a juvenile case.

It is our further opinion that since jurisdiction once having attached that same jurisdiction continues as far as that particular juvenile is concerned until that juvenile is twenty-one years of age, unless sooner released or tried under the provisions of Section 9 in the criminal Court. We are of the opinion that the proper procedure in such a case is to follow those set forth in Section 42 above quoted. In view of the position taken concerning the first question that you ask, we feel that there is no need to answer the other questions submitted.

Trusting that this will aid you in this matter, we remain

By: Paul L. Billhymer

Assistant Attorney General