

## Opinion No. 58-65

March 27, 1958

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Joel B. Burr, Jr., Assistant Attorney General

**TO:** Mr. T. M. Woodruff, Warden, State Penitentiary, P. O. Box 1059, Santa Fe, New Mexico

### QUESTION

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May the Board of Penitentiary Commissioners offer a reward of \$ 25.00 for information leading to the recapture of any inmate who may escape and \$ 50.00 for the actual capture of the inmate? Law enforcement officers would be excluded from receiving said reward.

#### CONCLUSION

Yes.

### OPINION

#### ANALYSIS

An offer of reward and acceptance thereof is nothing more than a contract whereby payment of money is made for benefit received.

Sec. 42-1-1, NMSA, 1953 Comp., among other things, designates the Penitentiary of New Mexico a corporate body and gives it the following powers:

"The general government and management of the penitentiary shall be vested in five (5) commissioners, who shall be appointed by the governor as in the Constitution provided, and the governor shall have power at any time to remove any of said commissioners, and appoint their successors. Said commissioners, and their successors in office, shall constitute a body corporate under the name and style of 'The Penitentiary of New Mexico,' and said corporation shall have the right as such to sue and be sued, **to contract and be contracted with**, to buy, own, hold, manage, lease, sell, mortgage and otherwise handle and dispose of all such real, personal and mixed property as in the judgment of the commissioners may be necessary and proper for the operation and management of the penitentiary, including the right to acquire, maintain and operate any necessary farm, or farms, at such places in this state as the commissioners shall designate." (Emphasis ours).

In our opinion, a contract of reward is such a contract as was contemplated by the legislature in the above quoted statute. Such a contract, we feel, is in harmony with the public policy of this State to apprehend escaped prisoners as expeditiously as possible at a minimum cost to the State.