

Opinion No. 60-80

May 4, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Miss Irene M. Richard, Superintendent Girls' Welfare Home Box 6038, Station B
Albuquerque, New Mexico

QUESTION

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May the Girls' Welfare Home accept custody of a juvenile girl sentenced by the Federal District Court for a violation of the Federal Juvenile Delinquency Act, under a contract for her care with the Bureau of Prisons?

CONCLUSIONS

No.

OPINION

{*440} ANALYSIS

The Girls' Welfare Home was created and its powers were delineated by statute; §§ 42-5-1, 2, 4 and 5, N.M.S.A., 1953 Comp. (P.S.). It is a well-established rule that such agencies are creatures of statute and as such have only the duties, powers and jurisdiction as are specifically granted them by statute or as are reasonably necessary to the accomplishment of their declared purposes. While we must concede that in some instances it would be desirable to permit the commitment of juvenile girls to the Home under the circumstances described above, we feel constrained to decide that the laws presently in force do not permit it.

That portion of the statutes which most clearly precludes the commitment is § 42-5-2 which declares in pertinent part that "The said board (Girls' Welfare Board) shall have power to receive . . . {*441} girls under the age of eighteen (18) years committed to it by the **district judges of the state** . . ." (Emphasis Added.)

This language is sufficiently clear to make any further study of the matter unnecessary. However, the same conclusion seems to be demanded by portions of the delinquent children statute. Section 13-8-1 et seq., N.M.S.A., 1953 Comp. (P.S.).

The definition section of said statute (§ 13-8-20, P.S.) provides in part that "Court" means juvenile court and that "Judge" means judge of the district court who shall also

serve as judge of the juvenile court. Then in the section entitled "Provisions for commitment of juveniles" (§ 13-8-53, P. S.), it is provided that:

"When any juvenile has been found to be within the provisions of this Code (13-8-19 to 13-8-73), the judge may issue an order to commit such juvenile:

* * *

E. In the event the juvenile is a girl, to the Girls' Welfare Home, until twenty-one (21) years of age, unless sooner discharged by the order of the juvenile court; . . ."

We must conclude that juvenile girls may be received by the Girls' Welfare Home only upon commitment order of a state district judge.

By: F. Harlan Flint

Assistant Attorney General