

N.D.A.G. Letter to Rayl (Nov. 3, 1987)

November 3, 1987

Mr. Richard L. Rayl
Director of Institutions
State Capitol
Bismarck, ND 58505

Dear Mr. Rayl:

Thank you for your letter of October 21, 1987, in which you inquire as to whether a juvenile court can commit an adjudicated juvenile delinquent to the Director of Institutions

North Dakota state law grants broad powers to the Director of Institutions to provide custody, care, and protection of juveniles determined to be delinquent. N.D.C.C. § 54-21-13 provides, in part:

54-21-13. Child Welfare -- Mentally deficient persons -- Powers and duties of director. In addition to the other duties prescribed by law, the director of institutions shall have the following duties and powers:

. . . .

5. To accept the guardianship of children who may be committed to his care by courts of competent jurisdiction as neglected, delinquent, dependent, or defective.
6. To make such provision for children, committed to his care as are within the resources of his office, and as will afford them proper care and protection.

. . . .

16. To act as parole officer of juveniles upon the request of courts or of superintendents of institutions of the state to which dependent, neglected, handicapped, or delinquent children may be committed; provided, that the director may delegate his function under this subsection to an administrative assistant employed in his office.

. . . .

18. To take the initiative in protecting and conserving the rights and interests of neglected, dependent, delinquent, illegitimate,

and defective children including initiation of protective proceedings under chapter 30.1-29.

In addition, N.D.C.C. § 27-20-31 authorizes a juvenile court to commit a delinquent child to a state department to which commitment of delinquent children may be made. That section provides in, part:

27-20-31. Disposition of delinquent child. If the child is found to be a delinquent child, or admits to a traffic-related offense in an informal adjustment hearing, the court may make any of the following orders of disposition best suited to the child's treatment, rehabilitation, and welfare:

. . . .

5. Committing the child to the state industrial school or to a state department to which commitment of delinquent or unruly children may be made.

Since the Director of Institutions is a state agency to which a commitment of a juvenile delinquent may be made, it is my opinion that a juvenile court may commit an adjudicated juvenile delinquent to the Director of Institutions.

Sincerely,

Nicholas J. Spaeth

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