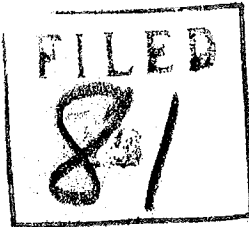


STATE BD. OF TRAINING SCHOOLS: DELINQUENT CHILDREN: TRAINING SCHOOLS: Not duty of State Board of Training Schools to prepare and present pre-sentence investigations of allegedly delinquent children or to supervise children found to be delinquent, unless such children are committed to institutions under control of Board.



September 21, 1955

Mr. W. E. Sears  
Director, Board of Training Schools  
Capitol Building  
Jefferson City, Missouri

Dear Mr. Sears:

This is in response to your request for opinion dated July 20, 1955, which reads as follows:

"The advice and counsel of your office is respectfully solicited regarding a problem now confronting this unit of state government.

"Clarification is desired of Section 219.020, RSMo Volume I, relating to powers and duties of the State Board of Training Schools. The point in question being whether under this section it is the duty of said board to prepare and present pre-sentence investigations; supervise children in community living; and perform related acts as an instrument of the court (normally cared for by juvenile officers as employees of the county). The request of appropriate juvenile judges being the determining factor of securing services outlined above. Children receiving this service being primarily in two categories: 1.) Children not being committed to the board but receiving probationary service under court jurisdiction and 2.) Children committed to the charge of the board but sentence held in abeyance and the child not received at one of the institutions under the control of the Board. It is further understood that such local service does not relate to a child on parole or released by the board as provided for in Section 219.250."

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Chapters 211 and 219, RSMo 1949, provide a complete scheme for the handling and treatment of delinquent children. Chapter 211 is divided into three parts: That part dealing with delinquent children in counties of classes one and two (Secs. 211.010-211.300, RSMo 1949), that part dealing with delinquent children in counties of classes three and four (Secs. 211.310-211.510, RSMo 1949), and that part generally applicable to all counties (Secs. 211.520-211.540, RSMo 1949).

Juvenile courts are established for all classes of counties to have jurisdiction over cases brought to have determined the alleged delinquency of a child (Secs. 211.020 and 211.320, RSMo 1949). Provision is also made for the appointment of probation officers in counties of classes one and two (Sec. 211.200, RSMo 1949), and that in counties of class two they shall be known as juvenile officers (Sec. 211.220, RSMo 1949).

In counties of classes three and four the county court is authorized to appoint a county superintendent of public welfare who shall have all the powers and duties conferred on probation or parole officers (Sec. 205.850, RSMo 1949). If, however, the county court fails to appoint a county superintendent of public welfare, the circuit judge shall designate or appoint a county officer or some other person to serve as probation officer under the direction of the court (Sec. 211.440). However, if there is neither a county superintendent of public welfare nor a probation officer, the sheriff must investigate all cases arising under Sections 211.310-211.510, RSMo 1949, and furnish the court such information and assistance as the judge may require. If a county of class three or four has either a county superintendent of public welfare or a probation officer, the sheriff shall serve as assistant probation officer (Sec. 211.455, RSMo, Cum. Supp. 1953).

In all classes of counties it is the duty of the probation officer to make such investigation of the child as may be required by the court, to be present in court at the hearings, and to furnish to the court such information and assistance as the judge may require, "and to take charge of any child before and after trial (hearing), as may be directed by the court." (Secs. 211.200 and 211.460, RSMo 1949.)

The court has wide discretion in committing a child upon a finding of delinquency. It may commit the child to the care of some reputable person or to some association willing to receive it, to an institution, or to the care of the probation officer and allow such child to remain in its home, or other manners set out in Sections 211.110 and 211.390, RSMo 1949.

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In counties of classes one and two the court may suspend sentence or execution thereof and in the meantime commit the child to the care and control of a probation officer (Sec. 211.110, RSMo 1949). In all classes of counties the court, if it deems it in the best interest of the child, may commit such child to one of the institutions under the charge and control of the State Board of Training Schools.

However, it is expressly provided that nothing in Sections 211.010-211.510, RSMo 1949, shall be construed to repeal any portion of the law relating to the Training School for Boys or the Training School for Girls, and that in all commitments to either of said institutions the law in reference to said institutions shall govern the same (Secs. 211.190 and 211.500, RSMo 1949).

Section 219.170, RSMo 1949, provides that no person shall be committed to the State Board of Training Schools whom the court finds to be in need of parental care in the family home.

Bearing in mind this last-mentioned section, since ample and adequate provision has been made for the control and supervision of delinquent children whom the court feels should not be committed to an institution under the control of the State Board of Training Schools through the appointment of probation officers or those who perform the same functions, and since the primary purpose of the Board of Training Schools is to have charge and control over the training schools and industrial homes for boys and girls of this state (Sec. 219.020, RSMo 1949), we do not believe that it is any part of the duties of the State Board of Training Schools in any event to prepare and present pre-sentence investigations or to supervise children found to be delinquent, unless in the latter case such children are committed to the Board and received by it in an institution under its control.

Once a child is committed to an institution under the control of the State Board of Training Schools, the Board may, in the exercise of its discretion, parole such child on such conditions as it sees fit, and in that event does have the duty of supervising such child until it is discharged (Sec. 219.250, RSMo 1949).

#### CONCLUSION

It is the opinion of this office that the State Board of Training Schools does not have any duty to prepare and present

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pre-sentence investigations of allegedly delinquent children or to supervise children found to be delinquent, unless such children are committed to an institution under its control.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Yours very truly,

JOHN M. DALTON  
Attorney General

JW:ml