

Opinion No. 14-1269

July 9, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Honorable H. L. Bickley, Raton, New Mexico.

POLICE JUDGE.

Police judge of a city must be a justice of the peace.

OPINION

{*129} I have received your letter of yesterday in which you ask my opinion as to whether the office of police judge may be created by a municipality, and a person other than a justice of the peace appointed to fill such office. You refer to the fact that by the ordinances of Albuquerque and Santa Fe such an office has been created and the duties of the police judge defined, and you refer to Section 2408 of the Compiled Laws of 1897 and the amendments thereto in Chapter 11 of the Laws of 1907 as the legislation on the subject.

I believe there are no other statutory provisions than those contained in Section 2408 and the amendment thereto. I believe that the amendment may have been adopted because in Albuquerque there are two justices of the peace, and one designated by the city council to act as police judge was in a precinct different from the one in which the city court room was situate. At the present time the justice of the peace, in a precinct a part of which is in the southern portion of the city, is the city judge, while the city hall and jail are in the other precinct.

I am quite sure there is no authority of law for the appointment of any person other than a justice of the peace to act as city judge, {*130} and practically I have not known of any such other person being appointed. I can see no excess of authority in the making of ordinances which would provide how the jurisdiction of the justices of the peace designated under Section 2408 should be exercised, but as already stated, there seems to be no authority to appoint anyone other than a justice of the peace. The legislature could, under Section 1 of Article VI of the Constitution, establish city courts in any municipality, but it has not done so except to the limited extent provided in said section 2408.