

**Opinion No. [30-63]**

February 21, 1930

**BY:** M. A. OTERO, JR., Attorney General

**TO:** Hon. Geronimo Baca, Justice of the Peace, Grants, New Mexico.

PUBLIC HIGHWAYS -- Regulating traffic on.

**OPINION**

I have yours of the 17th inst. in which you ask for advice in the matter of enforcing the highway traffic regulations as imposed by chapter 75 of the Laws of 1929, you being an unincorporated village and having no regular traffic officers. Your questions have to do particularly with reckless driving and with drivers who exceed the speed limit.

Any public offense which may, in the discretion of the court, be punished by a sentence exceeding six months imprisonment is a felony, see sections 1452 and 5062 of the Codification of 1915, all other offenses are misdemeanors, see section 1452, Codification of 1915.

Under section 3 of Title 2 of chapter 75, Laws of 1929, reckless driving is punishable as provided in section 61 of the act and the highest penalty which may be imposed under section 61 does not include imprisonment for a term of more than six months, consequently such offenses are but misdemeanors. The same is true of exceeding the speed limit.

Subsection (b), section 63, Title VI, of the act, provides that no one shall be arrested upon the charge of violating any provision of the act punishable as a misdemeanor except by an officer who at the time of making such arrest is wearing a uniform which clearly indicates his official status.

It is suggested that if you would take up this matter with Mr. Nicholas, your District Attorney, he may be able to work with the county commissioner and sheriff's office to provide a uniformed officer who will have authority to arrest those who violate the statute in these respects.