

**Opinion No. 42-4020**

February 17, 1942

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Albert Karlin Mayor Aztec, New Mexico

{\*160} In your letter dated February 16, 1942, you request an opinion from this office relative to your authority to appoint a police magistrate, and also concerning his qualifications.

Ordinarily this office is not obligated to render opinions to officers of a municipality and we prefer that a request for such opinions be transmitted either through the District Attorney or the State Comptroller's office. However, in order to save unnecessary delay, I shall make an exception in this case.

Under Chapter 230, Laws of 1939, Section 3, the qualifications of police judges are declared to be the same as those for justices of the peace, which, in general, are that he shall be a qualified elector and a resident of the precinct in which he is a candidate. Section 4 of said law provides in part as follows:

"Such police judges shall be elected for a term of two years at each regular city election, and vacancies may be filled by the mayor, subject to the approval of the city council."

In view of this statute, you, as mayor, may appoint a duly qualified person to act as police judge, with the approval of the city council, until the next regular city election.

By C. C. McCULLOH,

Asst. Atty. General