

**Opinion No. 48-5145**

April 23, 1948

**BY:** C. C. McCULLOH, Attorney General

**TO:** Donald D. Hallam Assistant District Attorney Fifth Judicial District Hobbs, New Mexico

{\*144} We wish to acknowledge receipt of your letter of April 14, 1948, wherein our opinion was requested as to the following question:

"Is the jurisdiction of a Justice of the Peace in a criminal case limited to the precinct wherein {\*145} the crime was committed, or where the defendant resides, or does he have jurisdiction to hear any criminal case proceeding the act of which occurred within the County wherein the Justice of the Peace shall reside?"

It is our opinion that the answer to your question is contained in Section 38-1201 of the New Mexico 1941 Compilation which provides as follows:

"Every justice of the peace shall have jurisdiction in criminal cases throughout the county in which he was elected and where he shall reside, and shall be a conservator of the peace therein. He is authorized and required, on view or complaint made on oath or affirmation, to cause any person charged with the commission of a crime or breach of the law, to be brought before him or some other justice of the peace, and shall inquire into the complaint, and try the same, if within the jurisdiction of a justice of the peace, and either commit to jail, discharge or recognize such person to appear before the district court, as the case may require. \* \* \*"

Perhaps we should point out, however, that other sections of our laws require that a Justice of the Peace try cases and hold court in his respective precinct, except when requested in writing by the justice of the peace of some other precinct to act in some particular case in which the latter desires another Justice of the Peace to sit.

Trusting the aforementioned satisfies your inquiry, I am

By ROBERT V. WOLLARD,

Asst. Atty. General