

Opinion No. 55-6114

February 25, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Charles B. Barker, Assistant District Attorney, First Judicial District, Santa Fe, New Mexico

In your letter dated February 25, 1955, you refer to us for an opinion a request from the Chairman of the Board of County Commissioners of Santa Fe County regarding the creation of a new precinct.

Under the facts submitted, a petition containing 96 signatures of electors resident within the boundaries of the proposed new precinct was submitted to the County Commissioners requesting that former Precinct No. 34 be divided and a new precinct No. 35 be created in the area south and east of Cerrillos Road, leaving the remainder of the former precinct as Precinct No. 34. Based upon this petition, the County Commissioners adopted a resolution dividing Precinct No. 34 and creating a new precinct No. 35, as requested in the petition. The Commissioners wish to know whether they now have authority to alter their action and make the new precinct No. 34 and the remainder of the old Precinct No. 35.

Section 15-37-18, New Mexico Statutes Annotated, 1953 Compilation, provides as follows:

"The board of county commissioners shall not set off or organize any new precinct unless a petition be first presented to the board, signed by at least fifty (50) citizens, resident within the boundaries of the proposed new precinct; and precincts so created shall be as compact in form, and cover as small an area as practicable, and shall be so established, and their boundaries so fixed, as to serve the greatest convenience of the people therein."

Sections 15-37-19 and 15-37-20, New Mexico Statutes Annotated, 1953 Compilation, provide for the preparation of a map and record of the new precinct or precincts created to be filed in the office of the county clerk and for a certified statement of the names and boundaries of the precincts and demarcations so organized to be filed with the Secretary of State. All this has been done and the authority of the Board of County Commissioners, based upon the petition presented, has been exhausted. There is no authority for the Commissioners at this time to undo their previous action and create precincts in a manner not requested in the petition.