

Opinion No. 60-35

March 2, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Paul W. Robinson District Attorney Second Judicial District County Court House
Albuquerque, New Mexico

QUESTION

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1. Does the fact that a county justice of the peace operates within the county court house even though such court may be within the corporate limits of the city affect Opinion of the Attorney General No. 60-10?
2. Is a justice of the peace from the county who is requested to preside for a municipal justice of the peace required to preside at the place where the municipal justice has his court?
3. Can a justice of the peace living within a mixed county-city precinct, or from a precinct wholly within the city, hold more than one court within the city?

CONCLUSIONS

1. No.
2. Yes.
3. No.

OPINION

{*387} ANALYSIS

Your first question is answered by Opinion of the Attorney General No. 60-10, wherein it was held that a justice of the peace elected or appointed in a county precinct cannot hold court at a location within the corporate limits of a city within the county unless he falls within one of the exceptions set forth in the statutes and referred to in that opinion.

The fact that the county may own property located within the corporate limits of a city does not operate to extend the jurisdiction of a justice of the peace outside his own precinct. The question is one of the physical boundaries of jurisdiction, not county ownership of property.

The second question involves the provision under § 36-2-8 permitting justices whose precincts lie wholly or partially in a city or town of more than two thousand inhabitants to establish their court anywhere within the corporate limits of such city or town. This provision does not increase the number of justice courts. The limitation remains at one court {*388} per precinct. Although the number is limited to one per precinct, there is no requirement that the office or court be located in the precinct from which the justice was elected. If the city has twenty-five precincts, there may be twenty-five justices elected, but it is also possible that all twenty-five offices could be held in one or two precincts insofar as the physical location is concerned.

The portion of this section dealing with the authority of one justice to request, in writing, another justice in a particular case to sit for him, and the authority of the justice requested to so sit, contemplates the request being made by a duly qualified and acting justice of any given precinct, that is, one who resides in and was elected from a given precinct. After the request is made, the alternate justice should conduct the proceedings **at the physical location** where the requesting justice has his court which, under the first part of this section, may be anywhere within the corporate limits of the city or town if the other prerequisites of the statute are met.

The third question is answered in the negative. Although one precinct may contain within its physical borders numerous courts, these courts would be the judicial representation of numerous precincts. There is no statutory authority for the justice of one precinct to establish numerous courts, all attempting to derive their jurisdiction on the basis of one justice from one precinct. The statute says he "may hold his court" anywhere within the city. This is not plural language. We interpret this to mean: one precinct; one justice; one court.

By: B. J. Baggett

Assistant Attorney General