

**Opinion No. 65-174**

September 3, 1965

**BY:** OPINION OF BOSTON E. WITT, Attorney General Frank Bachicha, Jr., Assistant Attorney General

**TO:** Martin B. Vigil, Capt., New Mexico State Police, Espanola, New Mexico

**QUESTION**

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May a justice of the peace hold court within an Indian Pueblo?

CONCLUSION

Yes, providing the court is in the proper precinct.

**OPINION**

{\*287} ANALYSIS

We understood from your request that the question herein was prompted by complaints from traffic violators.

Many Opinions have issued from this office regarding the requirements imposed upon justice of the peace as to where they must conduct court. See annotations to Section 36-2-8, N.M.S.A., 1953 Compilation.

Pertinent language of Section 36-2-8, supra, is as follows:

"Territorial limits of jurisdiction -- Residence. -- The jurisdiction of justices of the peace shall be coextensive with the limits of the county in which they shall be elected; Provided, that every justice of the peace shall reside and hold his office in the precinct for which he may be elected, except that in counties in which there is located or situated a city or town of more than two thousand (2,000) inhabitants, as shown by the last United States census, any such justice of the peace living in and elected in a precinct which is situated in whole or in part within the corporate limits of such town or city of more than two thousand (2,000) inhabitants may try any and all cases which he is otherwise entitled to try and may hold his court for the trial thereof and have his office anywhere within the corporate limits of the said city or town; . . ."

It is clear that a justice of the peace must comply with the requirements as to residence and location of his office as specified above. Assuming therefore that such requirements have been met in the present instance, the only question remaining would be whether

the fact that a judge happens to conduct his court in an Indian Pueblo would affect his power to act judicially. Certainly the fact that his office is located on Indian land cannot have the effect of enlarging his jurisdiction in any respect. He would retain a status equal to that of any other justice of the peace in this state.

Indian lands are included within the precincts for voting purposes. In **Montoya v. Bolack**, 70 N.M. 196, 372 P. 2d 387, it was said that: ". . . the Navajo Indian Reservation is not a completely separate entity existing outside of the political and governmental jurisdiction of the State of New Mexico. . . ." This same reasoning would more than likely apply to any other type of Indian reservation.

No reason is apparent nor have we found any express restriction which would affect the power of a justice of the peace to carry out his duties simply because his court was conducted on Indian land. The answer to the question posed, therefore, must be in the affirmative, {288} provided that all statutory requirements are met.