

Opinion No. 58-144

July 2, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Joel B. Burr, Assistant Attorney General

TO: Hon. Paul W. Robinson, District Attorney, Second Judicial District, Albuquerque, New Mexico

QUESTION

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1. May a Justice of Peace elected in a precinct which is wholly or partially within the corporate limits of a city of more than 2,000 inhabitants maintain office, hear and try cases in another precinct within the corporate limits of the city without securing the consent of the elected Justice of Peace in the precinct into which the first Justice of Peace has moved his office?
2. May a Justice of Peace elected in a precinct within the County which is completely outside the corporate limits of a city in excess of 2,000 inhabitants move his office into a precinct within the corporate limits of the city without securing the consent of the Justice of Peace into whose precinct the first Justice of Peace has moved?

CONCLUSIONS

1. Yes.
2. No.

OPINION

ANALYSIS

The answers to the questions posed above may be found from a careful reading of § 36-2-8, N.M.S.A., 1953 Compilation, which provides as follows:

"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 in 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; and Provided further, that any justice of the peace may try any and all cases which he is otherwise entitled to try, in another precinct of the same county in which he was elected, and is acting as justice of the peace, when requested, in writing, so to do by the duly qualified and acting justice of the peace of said precinct."

The language found in the above quoted statute is clear and unambiguous. It provides that a justice of the peace whose precinct is located either wholly or partially within the city limits of a city or town or more than 2,000 inhabitants may have his office anywhere within the corporate limits of a city or town and may try any and all cases which he is otherwise entitled to try within the said corporate limits.

Where, however, a justice of the peace is elected in a precinct within the county but completely outside the corporate limits of a city or town whose population is in excess of 2,000 inhabitants, he must secure in writing the approval of the justice of the peace into whose precinct he had moved his office for the purpose of trying a case filed therein.