



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

May 12, 1976

The Honorable E. L. Short  
Chairman  
Committee on Intergovernmental  
Affairs  
House Office Building  
P. O. Box 2910  
Austin, Texas 78767

Opinion No. H- 821

Re: Location of offices  
of justices of the peace.

Dear Representative Short:

At the direction of the House Intergovernmental Affairs  
Committee you ask:

If a justice precinct has a population  
of more than 75,000, is the commissioners  
court prohibited by [article 2379, V.T.C.S.]  
from transferring the justice court from  
the county courthouse to another building,  
such as the county jail or a separate  
county office building?

Article 2379, V.T.C.S., provides:

When the justice precinct where the  
courthouse of any county is located  
contains more than seventy-five  
thousand inhabitants, the commis-  
sioners court of said county shall  
provide and furnish a suitable place  
in such courthouse for such justice to  
hold court.

The statute provides that the county "shall" provide  
and furnish qualifying justices of the peace with a place  
to hold court in the courthouse. The word "shall" ordinarily  
implies a mandatory requirement. Attorney General Opinion  
H-326 (1974). The term "courthouse" has been defined as  
follows:

The courthouse means the building at the county seat in which the courts are held, the records kept, and the officers of the county maintain their offices and perform their functions. Harris v. Elder, 49 S.W.2d 973 (Tex. Civ. App. -- El Paso 1932, writ dism'd).

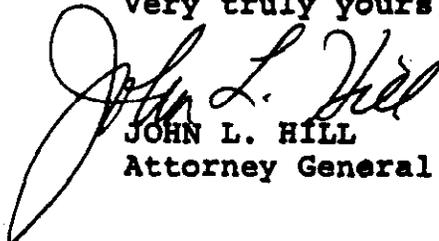
Accordingly, pursuant to the clear terms of article 2379, when a justice precinct in which the county courthouse is located contains more than 75,000 inhabitants, the county is required to provide and furnish a suitable place in the courthouse for the justice of the peace to hold court.

Whether a particular place is suitable for the holding of court and whether a particular building or group of buildings is the courthouse involve questions of fact which cannot be resolved in the opinion process. Attorney General Opinions H-56 (1973), M-307 (1968), M-195 (1968), M-187 (1968), C-697 (1966), WW-277 (1957) and O-2911 (1940).

S U M M A R Y

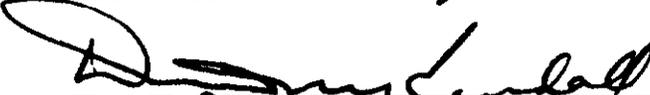
When a justice precinct in which the county courthouse is located contains more than 75,000 inhabitants, the commissioners court is required to provide the justice of the peace with a suitable place to hold court in the courthouse.

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant  
C. ROBERT HEATH, Chairman  
Opinion Committee