

March 28, 2001
OPINION NO. 01- 59

Honorable Robert M. Marionneaux, Jr.
State Senator, District Seventeen
P.O. Box 577
Livonia, LA 70755

Dear Senator Marionneaux:

You have requested an opinion from this office as to whether or not the 18th Judicial District Court, Probation Department, can purchase property upon which it can build a building to house its offices. You advise that it is your understanding that the 18th Judicial District Court, Probation Department, is a self functioning organization supervised by the judges of the 18th Judicial District Court.

It is our opinion that the 18th Judicial District Court, Probation Department, is nothing more than a functional office created by the judges of the 18th Judicial District Court to expedite the business and function of the Court in monitoring the conditions of probation imposed either on those defendants convicted of a misdemeanor or in the exercise of the Court's juvenile jurisdiction. LSA R.S. 13:996.36 (C); LSA C. Cr. P. Article 894 (A)(1); LSA Ch. C. Article 302 (2) and LSA Ch. C. Article 421. As simply a functional office of the Court, it would not have any independent legal capacity to enter into contracts, let alone purchase immovable property.

Furthermore, our research fails to find any constitutional or legislative authority for a district court to acquire immovable property. Rather, the parishes are mandated to furnish office space for the district courts; and are granted specific constitutional authority to acquire property for any public purpose. LSA R.S. 33:4713; LSA Const. Article VI, § 23. In this regard, our office has also rendered an opinion that the Criminal Court and Probation Funds provided for in LSA C. Cr. P. Article 571.11 and LSA C. Cr. P. Article 895.1(B) do not authorize the expenditure of those funds for the construction or renovation of court buildings. See: Opinion No. 92-273.

Finally, we are of the opinion that even under the doctrine of inherent powers, the 18th Judicial District Court does not have the authority or power to acquire immovable property. The inherent powers of the judiciary “pertains to the administration of the business of the court.” *Konrad vs. Jefferson Parish Council*, 520 So.2d 393, 397 (La. 1988). However, the 18th Judicial District Court may be entitled to a writ of mandamus to require the local governing authorities to appropriate the funds reasonably necessary to house the Probation Department and insure the effective operation of the Court. *McCain vs. Grant Parish Police Jury*, 440 So.2d 1369 (La. App. 3rd Cir. 1983); *Twenty-First Judicial District Court vs. State*, 563 So.2d 1185 (La. App. 1st Cir. 1990).

If we can be of any further service to you in this matter, please do not hesitate to contact our office.

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

BY: _____
ROBERT H. CARPENTER, JR.
Assistant Attorney General

RPI/RHC/tp

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15 COURTS
84 PARISHES
90-A-1 PUBLIC FUNDS & CONTRACTS

Neither the 18th Judicial District Court nor its Probation Department have the authority or power to acquire immovable property. The parishes are responsible for furnishing office space for the district courts and its staff. The 18th Judicial District Court may be entitled to a writ of mandamus to require the local governing authorities to appropriate funds reasonable necessary to house its Probation Department.

DATE REQUESTED: February 2, 2001

DATE RELEASED: March 28, 2001

REQUESTED BY: Honorable Robert M. Marionneaux, Jr.
State Senator, District Seventeen
P.O. Box 577
Livonia, LA 70755

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