

Opinion No. 59-10

February 13, 1959

BY: FRANK B. ZINN, Attorney General

TO: Honorable Walter R. Kegel District Attorney First Judicial District Santa Fe, New Mexico

Maximum charges for transcripts of preliminary hearings made by stenographers employed by justices of the peace are limited by statute.

OPINION

{*15} This office is in receipt of your letter of recent date in which you pose the following question in substance:

"Does the statutory provision relating to fees to be charged by justices of the peace place a ceiling on the amounts that may be charged by stenographers for transcripts of preliminary hearings before a justice of the peace?"

It is my opinion that the fees which may be charged for transcripts by a stenographer employed by a justice of the peace to take the testimony at a preliminary hearing, are clearly limited by statute. It is my view that Section 36-19-1, N.M.S.A., 1953 Compilation (P.S.), with its positive language can be interpreted in no other way except as I have stated.

"Section 36-19-1. . . . The justice of the peace . . . to employ a stenographer . . . who shall receive not to exceed the sum of ten dollars (\$ 10.00) per day, and where a transcript of said evidence is ordered, ten cents (10 [cents]) for each one hundred words or fraction thereof and the same shall be . . .".

In its concluding paragraph, the section states:

"No fee, other than those herein provided, shall be charged or collected, . . ."

These clear statements leave no room for interpretation.

Your attention is called to the fact that the statute clearly says "no fees, other than those herein provided, shall be charged or collected . . .". This limiting language applies, in my opinion, so that no charge can be made for the carbon copies supplied the state.

Carl P. Dunifon

Assistant Attorney General