

**Opinion No. 31-229**

August 1, 1931

**BY:** E. K. Neumann, Attorney General

**TO:** Mr. J. L. Gober, Justice of the Peace, Albuquerque, New Mexico.

{\*94} We have your letter of July 29th, in which you request information as to the payment of fees to sheriffs and constables for making arrests.

Our construction of the various provisions of law are briefly as follows: Under Section 79-1302, if a constable serves a warrant, makes an arrest and makes return thereon for a misdemeanor, his charge is 75c, whereas if the warrant charges a felony, the cost is \$ 1.50.

If, for any reason, an arrest is made without a warrant the constable's charge is \$ 1.00, and he is entitled to 50c for executing a commitment for each defendant.

Under Section 33-4422, the sheriff, on the other hand, is entitled to a fee of \$ 1.00 for serving every writ; a fee of \$ 1.00 for committing the defendant to jail, and a further fee of 50c for making his return. This, as you see, makes a total of \$ 2.50.

In all probability this is the provision of law under which the sheriff has been making his charges and without further facts before us, and in accordance with this assumption, it is our opinion that such procedure is correct.

With kind personal regards, I am

By Frank H. Patton,

Asst. Attorney General