

OPINION
71-83

December 3, 1971 (OPINION)

Mr. Vincent A. LaQua

State's Attorney

Wells County

RE: Coroners - State's Attorneys Inquests - Transcript

This is in response to your letter in which you state that you held a State's Attorney's inquest concerning the death of two persons in a two-car automobile accident. You further advise that one of the drivers was represented by an attorney and the testimony of witnesses was reduced in writing by a court reporter. The advisory jury concluded that the driver represented by legal counsel should not be charged with any criminal violation. The driver of the other car was dead which precluded any charge. You now advise that the attorney representing the driver at the hearing has requested that a transcript be furnished to him.

You then call our attention to sections 11-19A-09 and 11-19A-08 and ask for an opinion of the following question:

Can an attorney or representative of an insurance company demand and receive a transcript of the proceedings held in a State's Attorney's inquest?"

Presumably you conducted the State's Attorney's inquest under the provisions of chapter 11-19A. As you noted, section 11-19A-08 provides in part that "All records of said office of the coroner shall become and remain the property of the county, and shall be considered public records." Section 11-19A-09 provides that the testimony taken of witnesses shall be reduced in writing and shall become part of the coroner's files.

Because the transcript becomes part of the coroner files and because the same shall be considered public records, section 44-04-18 would be applicable. This section provides as follows:

ACCESS TO PUBLIC RECORDS. Except as otherwise specifically provided by law, all records of public or governmental bodies, boards, bureaus, commissions or agencies of the state or any political subdivision of the state, or organization or agencies supported in whole or in part by public funds, or expending public funds, shall be public records, open and accessible for inspection during reasonable office hours."

From the provisions of the above section it becomes eminently clear that the records are open for public inspection during reasonable office hours. This, however, does not mean that he is entitled to a copy free of charge.

The North Dakota Supreme Court has had under consideration section

44-04-18 in the case of Williston Herald v. O'Connell, 151 N.W.2d. 758 and Grand Forks Herald v. Lyons, 101 N.W.2d. 543. In the O'Connell case the court held that this section did not apply to county courts and in the Grand Forks case it held that it did not apply to county court records. Only persons who had an interest as distinguished from the general interest of the public were entitled to examine such records (in the latter case it was a probate matter). The coroner's inquest would appear to come with the provisions of section 44-04-18. It is not the same as a county court.

It is, therefore, our opinion that the transcript of a coroner's inquest is open for public inspection during reasonable office hours.

HELGI JOHANNESON

Attorney General