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ARIZONA ATTORNEY GENERAL

February 24, 1961

Mr. Charles Garland, Executive Secretary
Arizona State Fair Commission
1826 W. McDowell Road
Phoenix, Arizona

Dear Mr. Garland:

In your letter of February 3, 1961, you raise the question of the authority granted by statute to the State Fair Marshals. The following Arizona Revised Statutes are determinative of this question:

"§3-1003. State Fair Commission; powers and duties

The Arizona State Fair Commission shall:

* * *

5. When necessary in connection with business of the commission, appoint fair or ground marshals with the authority of peace officers.

"§1-215. Definitions

In the statutes and laws of the state, unless the context otherwise requires:

20. 'Peace officers' mean sheriffs of counties, constables, marshals and policemen of cities and towns.

* * *

"§13-911. Concealed weapons; definition; punishment; arrest; exceptions

A. A person, except a peace officer in actual service and discharge of his duty, who has concealed on or about his person a pistol or other firearm, kirk, dagger, sling shot, sword cane, spear, brass knuckles or other knuckles of metal, bowie knife or any kind of knife or weapon, except a pocket knife not manufactured and used for the purpose of offense and defense, is guilty of a misdemeanor punishable by a fine of not less than twenty nor more than three hundred dollars and by imprisonment in the county jail for not less than ten nor more than thirty days.

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B. A person carrying a concealed aeapon may be arrested without a warrant at any time of the day or night.

"§13-1403. Arrest by officer without warrant
A peace officer may, without a warrant, arrest a person:

1. When the person to be arrested has committed a felony or misdemeanor in his presence. If the arrest is for a misdemeanor, the arrest shall be made immediately or on fresh pursuit.
2. When the person to be arrested has committed a felony, although not in the presence of the officer.
3. When a felong has in fact been committed, and he has reasonable ground to believe that the person to be arrested has committed it.
4. When the officer has reasonable ground to believe that a felony has been or is being committed and reasonable ground to believe that the person to be arrested has committed or is committing it.

"§13-1418. Duty of officer after arrest without warrant
an officer who has arrested a person without a warrant shall without unnecessary delay take the person arrested before the nearest or most accessible magistrate in the county in which the arrest occurs, and shall make before the magistrate a complaint, which shall set forth the facts showing the offense for which the person was arrested."

From a reading of the foregoing statutes it is to be seen that the marshals appointed by the Fair Commission have the same powers and obligations as any qualified peace officer. They have the authority to arrest without a warrant and to file complaints against any person committing a crime upon the property of the State Fair Commission. The State Fair Commission marshals may wear sidearms or concealed weapons, if they please. After making an arrest, they are obligated by law to convey the person arrested to the county jail.

You raise a further question as to the obligation of the Maricopa County sheriff to accept custody of the persons arrested by the fair marshals upon state fair property. A reading of the following sections of the Arizona Code will help in answering this question:

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"§13-543. Refusal of officer to receive or arrest accused; punishment

An officer who wilfully refuses to receive or arrest a person charged with a criminal offense, shall be punished by a fine not exceeding five thousand dollars and by imprisonment in the state prison for not to exceed five years.

"§11-441. Powers and duties

A. The sheriff shall:

1. Preserve the peace.
2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or who have committed a public offense.
3. Prevent and suppress all affrays, breaches of the peace, riots and insurrection which may come to his knowledge.
4. Attend all courts, except justice and police courts, at their sessions held within the county, and obey their lawful orders and directions.
5. Take charge of and keep the county jail and the prisoners therein.
6. Endorse upon all process and notices the year, month, day, hour, and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time of reception.
7. Serve process and notices in the manner prescribed by law and certify under his hand upon the process or notices the manner and time of service, or if he fails to make service, the reasons for his failure, and return them without delay. When returnable to another county, he may enclose such process or notices in an envelope, addressed to the officer from whom received, and deposit it prepaid in the post office. The return of the sheriff is prima facie evidence of the facts stated in the return.

B. The sheriff may in the execution of the duties prescribed in paragraphs 1 to 4, inclusive, subsection A, command the aid of as many male inhabitants of the county as he deems necessary.

"§31-121. Duty of sheriff to receive and provide for prisoners; contracts for furnishing food

A. The sheriff shall receive all persons committed to jail by competent authority and provide them with necessary food, clothing and bedding, the cost of which shall be a county charge.

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B. The board of supervisors may enter into contracts for furnishing food for persons confined in the county jail, but such contract shall not be made for a period longer than one year."

These three sections are similar to West's CA^Alifornia Penal Code §§ 142, 4000 and 4015.

It is to be noted that the Arizona Revised Statutes are not identical to our California counterparts but are similar in all material aspects in answering the question before us. The California Attorney General's office in construing the aforementioned statutes, has held as follows:

"In view of Secs. 4000, 4015 and this section, the sheriff is required to accept custody and detain persons arrested by the police of a sixth class city within the county pending their conviction or release on acquittal, where such persons are arrested without a warrant and for violation of state laws, the city not maintaining a jail or other lockup and having no contractual relationship with the county for the care and detention of its prisoners."
(13 Ops. Atty. Gen. 120)

It is, therefore, the opinion of the Attorney General that when prisoners arrested by the marshals of the State Fair Commission are presented at the county jail the sheriff is obligated to receive and detain such persons.

I would be happy to come down and confer with the chief of the state fair police on the matters contained in this opinion. Also, I would be glad to tell him what obligations are upon him and what his powers are.

Cordially yours,

ROBERT W. PICKRELL
The Attorney General

BARRY LEVERANT
Assistant Attorney General

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