

September 1, 1950  
Op. No. 50-320

Mr. H. J. Wolfinger  
City Attorney  
Prescott, Arizona

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## ARIZONA ATTORNEY GENERAL

Dear Sir:

We have your letter of August 23 in which you state that you have pending in the city police court several cases in which the defendants are charged with drunken driving under the new state Traffic Code, the complaints in said cases having been filed by a state highway patrolman. You request our opinion as to whether the cost of alcoholic blood tests on such defendants should be paid by the City of Prescott or by the State of Arizona.

The offense to which you refer is made a crime by Section 54 of Chapter 3, First Special Session, Laws 1950 (Traffic Code). This same section makes the results of a chemical analysis of the blood very important evidence in the prosecution of a drunk driving case.

It follows that expenditures of state funds for the purpose of obtaining such an analysis would be for a public purpose and therefore proper, assuming such funds were available.

The local authorities of Prescott have jurisdiction which is concurrent with that of state authorities insofar as arrests and prosecutions for violations of the Traffic Code within the territorial limits of Prescott.

Expenditure of available funds by the City of Prescott for the purpose of obtaining a blood analysis in such a case would be for a public purpose and therefore proper.

It is our opinion that the costs of an alcoholic blood analysis in a drunk driving case being prosecuted in the Prescott Police Court can properly be paid by either the State of Arizona or the City of Prescott. We are further of the opinion that such an analysis is not mandatory and that neither the State of Arizona nor the City of Prescott must incur such an expense.

Specifically answering your question, we are of the opinion that Arizona law does not prescribe which of these two governmental bodies should pay for the cost of such tests. The practice in the past has been for local authorities to procure evidence because of the limited funds made available to state law enforcement agencies for such purpose.

Very truly yours,

FRED O. WILSON  
Attorney General

WILBERT E. DOLPH, JR.  
Assistant Attorney General

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