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June 7, 1955
Opinion No. 55-144

REQUESTED BY: Honorable Timothy J. Mahoney
Pinal County Attorney
Courthouse, Florence, Arizona

OPINION BY: ROBERT MORRISON, The Attorney General
Robert E. Kersting, Special Assistant
Attorney General

QUESTION: When a mentally ill patient is committed to the State Hospital for observation from a county other than Maricopa County, and such patient, at the end of thirty days, is taken before the Maricopa County Superior Court on a petition of the Superintendent of the State Hospital for permanent commitment, then which county is liable for court costs in connection with said proceedings?

CONCLUSION: Maricopa County

Section 8-207, ACA, 1939, as amended, provides for commitment to the State Hospital by any Superior Court of a mental patient for a thirty-day period of observation. Any further detention is not permitted, unless the Superintendent of the State Hospital deems it necessary and shall so certify to a judge of the Superior Court of Maricopa County. After further hearing and examination, the Maricopa County Superior Court may, in its discretion, either release said patient or order his further commitment.

Section 8-309, ACA, 1939, as amended in 1952 Supplement, reads as follows:

"8-309. Commitment to hospital--Charges of confinement.--The board of supervisors of the county shall cause such person to be conveyed to the state hospital and shall provide for the safe confinement and care of such person until placed therein, and the costs and charges therefor shall be a county charge."

It would seem from the foregoing two code sections, that county responsibility for the care of and confinement of an alleged mentally ill person ends when such person is placed in the State Hospital, even though such placement is for a temporary period or for a period for observation purposes. The Legislature has specifically provided, in Section 8-207, that further hearings or examinations shall be conducted by the Maricopa County Superior Court, and it would logically follow that any additional costs or expenses of

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such hearing or examination should be a charge upon the county in which said hearing or examination is held.

This conclusion would be further supported by other code sections, such as 47-106, ACA, 1939, providing for reimbursement by the State Prison to the various counties for costs of proceedings in the commitment of insane prisoners to the State Hospital, and in Section 8-907 (c), ACA, 1939, as amended, providing for reimbursement by the counties for the costs and maintenance of children temporarily committed to the State Hospital. It may further be noted that the most important costs resulting from examinations and hearings relative to the commitment of the mentally ill consist of fees paid to examining psychiatrists and court-appointed attorneys. Section 44-905, ACA, 1939, provides, in part, as follows:

"44-905. Right of counsel--Fees for services.
* * * Whenever counsel is appointed by the superior court, and such counsel represents the defendant, in either a criminal proceeding or insanity hearing, such counsel shall be paid by the county in which the court is situated, * * *"

Like provision is made for the compensation of physicians in Section 8-308, ACA, 1939, as amended in 1952 Supplement:

"8-308. Compensation of physicians.--Whenever a physician is appointed, to make examination of an alleged mentally ill person, he shall be paid as compensation therefor such amount as the judge of the superior court may determine, subject to the same limitations imposed for compensation for attorneys in sanity hearings, as provided in section 44-905, Arizona Code of 1939."

It is, accordingly, the opinion of this office that Maricopa County is liable for costs and expenses resulting from additional hearings and examinations of mentally ill patients who have been committed to the State Hospital for observation from a county other than Maricopa.

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