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State of California

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OPINION	:	No. 82-1106
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of	:	<u>APRIL 26, 1983</u>
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THE HONORABLE STAN STATHAM, A MEMBER OF THE CALIFORNIA ASSEMBLY, has requested our opinion on the following question:

Are a city's costs, incurred by its police department, in transporting a person under Welfare and Institutions Code section 5150 to a mental health facility for 72-hour treatment and evaluation a responsibility of the city, the county or the state?

CONCLUSION

A city's costs, incurred by its police department, in transporting a person under Welfare and Institutions Code section 5150 to a mental health facility for 72-hour treatment and evaluation are the responsibility of the city.

## ANALYSIS

Welfare and Institutions Code<sup>1</sup> section 5150, a part of the Lanterman-Petris-Short Act (LPS), provides in part as follows:

"When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation."

We are asked to state our opinion on which government entity (the city, the county or the state) is responsible for the costs incurred by a city police department in transporting a dangerous or gravely disabled person to a 72-hour treatment and evaluation facility designated by the county and approved by the state.

A city provides police services for the preservation of the safety, health and welfare of persons within the city. (Cal. Const., art. XI, § 7; Gov. Code §§ 36501, 36505, 38630, 38631 and 41601; Pen. Code § 830.1; *Chafor v. City of Long Beach* (1917) 174 Cal. 478, 487; *Christal v. Police Commission* (1939) 33 Cal.App.2d 564, 567-568; 49 Ops.Cal.Atty.Gen. 136, 137 (1967).) As expressed in *Noble v. City of Palo Alto* (1938) 89 Cal.App.47, 53: "[N]owhere in the general law or in local ordinances can we find all the duties of a police officer set forth in detail. Indeed, those duties are so varied and indefinable that we could not expect an exact and detailed outline thereof." (See also *Terlau v. Board of Police Commissioners* (1954) 126 Cal.App.2d 116, 117.) Welfare and Institutions Code section 5150 imposes an additional duty upon a police officer; the expenses incurred in carrying out such a duty are ordinarily borne by the governmental entity employing him or her. (*Niceley v. County of Madera* (1931) 111 Cal.App.731, 739; *Fursdon v. County of Los Angeles* (1950) 100 Cal.App.2d Supp. 845, 847.)

Is the county obligated to pay the city's expenses in transporting persons to the treatment and evaluation facility? We find no statutory requirement for such reimbursement.

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<sup>1</sup> All statutory references in this opinion will be to the Welfare and Institutions Code, unless otherwise indicated.

No provision of the Government Code specifically makes city costs arising from the transportation of persons to a county facility a county charge.<sup>2</sup> (See Gov. Code §§ 29600-29618.) However, Government Code section 29607 does make certain expenses for the temporary, emergency or extended treatment of indigent patients<sup>3</sup> a county charge when authorized by the board of supervisors. The Health and Safety Code contains provisions relating to county medical care. We are informed that some designated section 5150 facilities are located in county hospitals. Health and Safety Code section 1443 allows the board of supervisors to "provide for transporting the needy sick to and from hospitals to which they may be sent by authority of the board . . . ." For this purpose, counties with populations of one million or more may establish ambulance services. (Health & Saf. Code § 1444; see 1 Ops.Cal.Atty.Gen. 61 (1943).) We find no provision, however, in the Health and Safety Code making expenses of a city police department in transporting someone, indigent or otherwise, to a county medical facility a county charge.

Generally, a county may be reimbursed by the state under the Short-Doyle Act (§§ 5600-5803) for mental health services furnished under LPS. (51 Ops.Cal.Atty.Gen. 6, 9 (1968).) This act requires a county plan leading to such reimbursement. (§§ 5620-5664.) Each year the county plan, prepared in compliance with sections 5651-5652, 5664 and 5678, is submitted to the state Director of Mental Health. (§ 5650; 9 Cal. Admin. Code §§ 540-574.) The Department of Mental Health will review and approve each county plan, such approval being subject to the amount appropriated for the purposes of such plans in the Budget Act. (§ 5703.1.) Funds are allocated to the county under the formulas set forth in the act. (§§ 5705-5721; 9 Cal. Admin. Code § 600-601.) One of these provisions, section 5719, provides in part as follows:

"Except as provided in Section 5719.2, to continue county expenditures for legal proceedings involving mentally disordered persons, the following costs incurred in carrying out Part 1 (commencing with Section 5000) of this division shall be non-state-reimbursable charges:

"(a) The costs involved in bringing a person in for 72-hour treatment and evaluation . . . ."

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<sup>2</sup> Since the person under 72-hour detention is not under arrest for a violation of a county ordinance or a state criminal law we do not discuss the respective city or county liability for transportation expense as a part of medical costs for such arrested person. (See Gov. Code § 29602; 58 Ops.Cal.Atty.Gen 496 (1975).)

<sup>3</sup> Of course, not all section 5150 cases will involve indigents.

Consequently, the transportation costs which are the subject of this opinion are not reimbursable with Short-Doyle funds unless the section 5719.2 exception is applicable. Section 5719.2 provides:

"The Director of Mental Health shall adopt regulations which shall, upon the request of a county containing more than 20,000 square miles, authorize the use by that county of not exceeding one hundred fourteen thousand dollars (\$114,000) out of its existing Short-Doyle funds that have already been allocated to it under the Short-Doyle Act for the costs involved in bringing a person in for 72-hour treatment and evaluation if the distance to be traveled exceeds 50 miles and the unavailability of transportation by law enforcement authorities resulted in the use of an alternative transportation method which was reasonable and appropriate in the circumstances."

This provision appears to be special legislation (see Stats. 1981, ch. 992, § 3, p. 3836) since only San Bernardino County has a total area exceeding 20,000 square miles. (*California Statistical Abstract*, 1981, p. 2.) In any event, the section will allow reimbursement only on the condition, inter alia, that transportation by law enforcement authorities is unavailable.

Upon review of the statutes, we conclude that the state is not required to pay the costs of a police department in transporting a person to a facility designated under section 5150.

We have found no provision of law compelling the county or the state to pay a city's expenses incurred under Welfare and Institutions Code section 5150. Accordingly, we conclude a city's costs, incurred by its police department, in transporting a person under section 5150 to a mental health facility for 72-hour treatment and evaluation are the responsibility of the city.

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