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## Special Project

### THE ADMINISTRATION OF PSYCHIATRIC JUSTICE: THEORY AND PRACTICE IN ARIZONA

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*But here's an object more of dread  
Than aught the grave contains—  
A human form with reason fled,  
While wretched life remains.*

—Abraham Lincoln

#### INTRODUCTION

A musty file in the Greenlee County Courthouse reveals that on January 22, 1912, shortly before Arizona became a state, a 19-year-old Mexican-American woman residing in Morenci was taken into custody and placed in the county jail by a deputy sheriff who, that same day, filed with the Greenlee County Probate Court the following commitment petition:

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\*\*\* This project required the services of a large number of students who conducted empirical and legal research and wrote numerous papers which constitute the foundation of this study. The project is very much a group effort. See p. 3 *infra*. For the full list of contributors, see p. 4 *infra*.

Have known girl about one year. Last summer—July or Aug. 1911—commenced to act irrational. Has been under treatment of physicians past 4 months. They called me this A.M. and told me they were unable to treat her successfully—that she is crazy and I must arrest her.

The proposed patient was apparently examined the next day by two physicians, who duly completed the required medical questionnaire.<sup>1</sup> In addition to mentioning that the patient's physical health was good, that she was "cleanly" in her personal habits, that she did not use liquor, tobacco or drugs, and that neither she nor any of her relatives had ever been mentally ill or hospitalized in the past, the doctors listed the following information on those portions of the form devoted to mental illness and dangerousness:

**Dangerousness:**

No threats or attempts to commit suicide or murder. Is of a very happy temperament. Has a tendency to laugh and sing.

**Facts indicating insanity:**

She wanted to dance. Most of conversation was fairly rational.

**Appearance and Activity of patient:**

Was in constant motion. Could not sit or stand still. Laughs at anything said or done.

**Other facts:**

The patient formerly was very quiet and retiring. Is now very voluble and will talk with anyone.

Diagnosing her mental problems as being supposedly caused by "bathing in cold water at menstrual period" and as probably being "only temporary" in nature, the physicians nevertheless concluded that in their judgment, "the accused is insane, and it is dangerous to the accused and to the person and property of others by reason of such insanity that the accused go at large." On January 23, 1912, after a judicial hearing, the probate judge signed an order committing the patient to the "Territorial Asylum for the Insane, at Phoenix, Arizona, until sufficiently restored to reason, or otherwise discharged according to law."

But the 1912 commitment order does not complete the court file. It is followed by another order, requested by the hospital, permitting the institution to apply some of the patient's personal funds to pay the maintenance costs of her involuntary confinement.<sup>2</sup> That order, however, was dated May 26, 1969. Investigation by the project at the Arizona State Hospital confirmed the frightening fact that the patient, now 78 years of age, is today still a resident at the hospital, the great bulk of her life reflected well by two drab documents resting back-to-back in a court file.

1. Interestingly, the rather extensive medical form used in 1912 seems appreciably better than the form currently in use.

2. See "The Assessment of Costs," pp. 80-88 *infra*.

That example, while obviously an extreme case, is but one of many troubling features of the administration of psychiatric justice uncovered during a field study conducted under the auspices of the *Arizona Law Review* and the College of Law. The findings and conclusions of that study are embodied in the present project, which is the result of a year-long effort initially framed around a seminar in law and psychiatry. Most of the seminar participants<sup>3</sup> served the project by conducting basic library research, writing papers, and performing extensive field work, which involved, among other things, observing many commitment hearings in Maricopa<sup>4</sup> and Pima<sup>5</sup> Counties, examining court files, visiting the Arizona State Hospital and various county hospitals, and conducting interviews with physicians, lawyers and judges in every Arizona county. The project is deeply indebted to the many cooperative persons interviewed, without whom the study could not have even been attempted.

During the spring semester, after the seminar had officially terminated, several participants remained with the project to finish the field work and to convert the raw data and library research into a manuscript. Assistance was also obtained from persons trained in medicine, psychology, and sociology.

The result of the group effort is the publication of the present project, which consists structurally of four separate—and separately footnoted—parts. Part I deals with the civil commitment process, Part II with the criminal commitment process, Part III with the post-commitment legal aspects relating to state hospitalization, and Part IV contains the general conclusion. A detailed *Table of Contents* appears preceding the Introduction.

A reader of this work who is familiar with normal legal citation methods will soon discover that in some cases the rules of the guidebook, *A Uniform System of Citation*,<sup>6</sup> have not been followed. Specifically, where reference is made to observed commitment hearings, or information regarding court files is presented, citation to case name and number is not included. Although technically these proceedings are public in nature, maintaining respect for the privacy of the individuals and families involved is thought by the editors to be paramount.

Similarly, in many reported interviews, the name of the interviewee, date and place of the interview will not be given. The project found that in order to encourage free discussion of the delicate and controversial matters involved in this report, it was often necessary to assure the interviewee of anonymity. We recognize, however, that there is a legitimate academic

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3. See starred notes, p. 1 *supra*; list of contributors, p. 4 *infra*.

4. Phoenix is the State Capital and county seat of Maricopa County. Fifty-three percent of the state's population reside in Maricopa County, which comprises 9,238 sq. miles and is located in the central portion of the state.

5. Tucson is the county seat of Pima County and its principal city. The county encompasses 9,241 square miles of Southern Arizona desert and mountains. The vast majority of the county's 322,500 people live in the Tucson area.

6. Cambridge, Mass.: The Harvard Law Review Association (11th ed. 1967).

interest in identifying the point of view from which a commentator speaks. Where appropriate, therefore, the text or footnotes will indicate the capacity in which the interviewee serves this state's mental health system. The tapes, notes and other data were of course preserved and are on file in the offices of the *Arizona Law Review*.

Hopefully, the project will lead to major reforms in mental health law and practice in Arizona. In addition, although the field study was undertaken exclusively within Arizona, it is clear that many of the examined problems and practices transcend state borders. It is hoped, therefore, that the project will also be useful outside Arizona, perhaps in suggesting lines of needed inquiry and in encouraging parallel studies in the important field of psychiatric justice.

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