



Multnomah County Oregon

Board of Commissioners & Agenda

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BOARD OF COMMISSIONERS

Ted Wheeler, Chair

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-3308 FAX (503) 988-3093

Email: mult.chair@co.multnomah.or.us

Maria Rojo de Steffey, Commission Dist. 1

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-5220 FAX (503) 988-5440

Email: district1@co.multnomah.or.us

Jeff Cogen, Commission Dist. 2

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-5219 FAX (503) 988-5440

Email: district2@co.multnomah.or.us

Lisa Naito, Commission Dist. 3

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-5217 FAX (503) 988-5262

Email: district3@co.multnomah.or.us

Lonnie Roberts, Commission Dist. 4

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-5213 FAX (503) 988-5262

Email: lonnie.j.roberts@co.multnomah.or.us

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JANUARY 8 & 10, 2008 BOARD MEETINGS FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:00 a.m. Tuesday Executive Session
Pg 2	10:00 a.m. Tuesday Work Session on Chair's Priorities and Continued Discussion of Corrections Management Options
Pg 3	9:30 a.m. Thursday Opportunity for Public Comment on Non-Agenda Matters
Pg 3	9:40 a.m. Thursday First Reading of a Proposed Ordinance Amending Multnomah County Code Relating to Transportation Code Enforcement
Pg 3	9:45 a.m. Thursday Update on the Progress of Field Based Work Release
Pg 3	10:00 a.m. Thursday Six-Year Community Plan to Improve Outcomes for Children and Families

Thursday meetings of the Multnomah County Board of Commissioners are cable-cast live and taped and may be seen by Cable subscribers in Multnomah County at the following times:

Thursday, 9:30 AM, (LIVE) Channel 30
Saturday, 10:00 AM, Channel 29
Sunday, 11:00 AM, Channel 30
Tuesday, 8:15 PM, Channel 29

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Tuesday, January 8, 2008 - 9:00 AM
Multnomah Building, Sixth Floor Commissioners Conference Room 635
501 SE Hawthorne Boulevard, Portland

EXECUTIVE SESSION

- E-1 The Multnomah County Board of Commissioners will meet in Executive Session Pursuant to ORS 192.660(2)(d),(e) and/or (h). Only Representatives of the News Media and Designated Staff are allowed to attend. News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Session. No Final Decision will be made in the Session. Presented by County Attorney Agnes Sowle. 15-55 MINUTES REQUESTED.
-

Tuesday, January 8, 2008 - 10:00 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

WORK SESSION

- WS-1 Work Session to Review Chair's Priorities and Continued Discussion of Corrections Management Options. Presented by Chair Ted Wheeler and Assigned Staff. 90 MINUTES REQUESTED.
-

Thursday, January 10, 2008 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:30 AM

DEPARTMENT OF COUNTY HUMAN SERVICES

- C-1 ORDER Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

REGULAR AGENDA

PUBLIC COMMENT - 9:30 AM

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

NON-DEPARTMENTAL - 9:30 AM

- R-1 Budget Modification NOND-04 Transferring \$50,000 from Contingency to the Citizen Involvement Committee for 1.0 FTE to Assist with Enhanced Citizen Involvement [Continued from December 20, 2007]

DEPARTMENT OF COMMUNITY JUSTICE – 9:35 AM

- R-2 Budget Modification DCJ-14 Increasing the Department of Community Justice Federal/State Appropriation by \$54,480 from the Oregon State Commission on Children and Families for the Court Appointed Special Advocates Volunteer Program

DEPARTMENT OF COMMUNITY SERVICES – 9:40 AM

- R-3 First Reading of a Proposed ORDINANCE Amending Multnomah County Code Chapter 29.504 Relating to Transportation Code Enforcement

SHERIFF'S OFFICE – 9:45 AM

- R-4 Update on the Progress of Field Based Work Release. Presented by Captain Bobbi Luna and Program Manager Byron Moore. 15 MINUTES REQUESTED.

COMMISSION ON CHILDREN, FAMILIES AND COMMUNITY – 10:00 AM

- R-5 Six-Year Community Plan to Improve Outcomes for Children and Families in Multnomah County. Presented by Wendy Lebow, Joshua Todd and Carla Piluso. 20 MINUTES REQUESTED.

BOARD COMMENT

Opportunity (as time allows) for Commissioners to provide informational comments to Board and public on non-agenda items of interest or to discuss legislative issues.

Thursday, January 10, 2008 – 6:00-8:00 PM
East Portland Community Center
740 SE 106th Avenue, Portland

EAST PORTLAND ACTION PLAN COMMITTEE **MONTHLY MEETING**

A quorum of the Multnomah County Board of Commissioners may be attending the East Portland Action Plan Committee Monthly Meeting. This meeting is open to the public. For agenda topics and/or further information, contact Barry Manning at **bmanning@ci.portland.or.us**.



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
501 S.E. HAWTHORNE BLVD., Room 600
PORTLAND, OREGON 97204
(503) 988-5217

LISA NAITO • DISTRICT 3 COMMISSIONER

MEMORANDUM

TO: Chair Ted Wheeler
Commissioner Maria Rojo de Steffey
Commissioner Jeff Cogen
Commissioner Lonnie Roberts
Board Clerk Deb Bogstad

FROM: Matthew Lieuallen
Staff to Commissioner Lisa Naito

DATE: January 7, 2008

RE: Tuesday Work Session on Chair's Priorities and Continued Discussion of
Corrections Management Options

Commissioner Naito will participate in the January 8, 2008 Board Work Session by phone.

Thank you,
Matthew Lieuallen



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
501 S.E. HAWTHORNE BLVD., Room 600
PORTLAND, OREGON 97204
(503) 988-5213

Lonnie Roberts • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Chair Ted Wheeler
Commissioner Maria Rojo de Steffey
Commissioner Jeff Cogen
Commissioner Lisa Naito
Board Clerk Deb Bogstad

FROM: Sam Peterson
Staff Assistant to Commissioner Lonnie Roberts

DATE: January 7, 2008

RE: January 8 Work Session.

Due to a prior appointment, Commissioner Roberts will be leaving the January 8, 2008 Work Session a half hour early, at 11:00.

Thank you,

Sam Peterson



MULTNOMAH COUNTY

AGENDA PLACEMENT REQUEST (short form)

Board Clerk Use Only

Meeting Date: 01/08/08
Agenda Item #: E-1
Est. Start Time: 9:00 AM
Date Submitted: 01/02/08

Agenda Title: Executive Session Pursuant to ORS 192.660(2)(d),(e)and/or(h)

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date: January 8, 2008 Amount of Time Needed: 15-55 minutes
Department: Non-Departmental Division: County Attorney
Contact(s): Agnes Sowle
Phone: 503 988-3138 Ext. 83138 I/O Address: 503/500
Presenter(s): Agnes Sowle and Invited Others

General Information

1. What action are you requesting from the Board?

No final decision will be made in the Executive Session.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

Only representatives of the news media and designated staff are allowed to attend. Representatives of the news media and all other attendees are specifically directed not to disclose information that is the subject of the Executive Session.

3. Explain the fiscal impact (current year and ongoing).

4. Explain any legal and/or policy issues involved.

ORS 192.660(2)(d),(e)and/or(h)

5. Explain any citizen and/or other government participation that has or will take place.

Required Signature

Elected Official or
Department/
Agency Director:

Date: 01/02/08



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST (short form)

Board Clerk Use Only

Meeting Date: 01/08/08
Agenda Item #: WS-1
Est. Start Time: 10:00 AM
Date Submitted: 12/31/07

Agenda Title: Work Session to Review Chair's Priorities and Continued Discussion of Corrections Management Options

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date: January 8, 2008
Amount of Time Needed: 90 minutes
Department: Non-Departmental
Division: Chair's Office
Contact(s): Bill Farver; Barbara Willer
Phone: 503 988-5066 **Ext.** 85066 **I/O Address:** 503/600
Presenter(s): Chair; Assigned Staff

General Information

1. What action are you requesting from the Board?

Review and discussion of the priorities identified by the Chair in the areas of funding, county initiatives, and internal management. Review and discussion of viable options to current management of county corrections operations.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The Chair has identified his top priorities for the 2007-08 fiscal year after conversations with Board members, Department Managers, Elected officials, and staff. Many priorities are being carried out in conjunction with other Board members. The Chair will periodically update the Board on the progress of these priorities and seek their ideas, involvement, and support. Most of the 07-08 priorities have already been before the Board in the past 4-6 months. This briefing will provide an update on three that have not been previously before the Board: Vital Aging Task Force, Community Access to County Services and Inclusiveness in Hiring/Promotion Practices.

Additionally, the Chair briefed the Board on options to the current management of corrections at a December 11, 2007, work session. The second half of this briefing will provide further detail on

these options.

3. Explain the fiscal impact (current year and ongoing).

The fiscal, legal, policy, and citizen and government involvement are unique to each issue and will be discussed individually at the work session, as applicable.

4. Explain any legal and/or policy issues involved.

See above.

5. Explain any citizen and/or other government participation that has or will take place.

See above.

Required Signature

Elected Official or
Department/
Agency Director:



Date: 12/31/07

12-31 CHAIR'S PRIORITIES REPORTED TO BOARD

On October 2 and October 30, 2007, the Chair and his staff presented updates on the Chair's priorities to the Board of County Commissioners. These priorities were developed in conversations with the Board, Department Managers and Chair's staff. This list does not include every issue that we are concerned about, but represents where the Chair is focusing his energy. On January 8, starting at 10 am, we will hold the third of these informational sessions. We hope to provide periodic updates to the Board after the initial presentations.

FUNDING ISSUES

ISSUE	GOAL	STAFF Internal and Chair's office
Wapato Jail and Public Safety levy	Pursue highest and best use of facility. Finish Public Safety Planning Process; develop potential Public Safety Levy for November, 2008. Seek partnership with neighboring counties and State of Oregon for use as re-entry facility. If unsuccessful, explore options (i.e. partnership with private company).	Scott Taylor Christine Kirk October 2 Bill Farver
Sellwood Bridge/ Bridge Funding	Obtain local match funding for federal funding for replacement span; complete current planning process to obtain agreement on span. Develop plan to ask for voter support for increase in vehicle registration fee dedicated to bridge maintenance and replacement. Eventually, pursue bridge authority with consultant's help; obtain funding for bridge and transportation maintenance needs through cooperative work with City of Portland, other local jurisdictions, Metro, State and federal governments.	Cecilia Johnson October 2 Transportation issues in general October 30 Barbara Willer
Courthouse	Develop plan for new Courthouse for proposal to State Legislature and possible GO Bond; plan on request to voters in 2009 or 2010.	Doug Butler October 2 Bill Farver

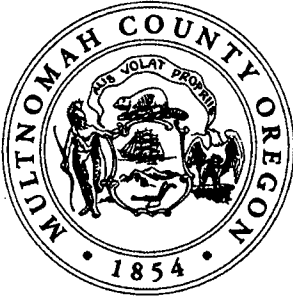
INITIATIVES

ISSUE	GOAL	STAFF
Root Causes of Inequities in Health and Juvenile	Reduce inequities in health outcomes in our community and overrepresentation of minorities in the County Juvenile Justice Division. Engage both a cross-county workgroup and community partners in assisting to address the root causes of inequities.	Lillian Shirley Tricia Tillman October 30 Lorenzo Poe
Citizen Engagement Plan	Develop a plan that increases the level of appropriate citizen engagement in County policy and practice, and that: 1) Defines and establishes guiding principles for community engagement across the County (using best practice models for like jurisdictions) and 2) Identifies the collaborative roles and processes for community engagement for Community Involvement Committee (CIC), Office of Citizen Involvement	Hector Roche October 2 Lorenzo Poe

	(OCI), Public Affairs Office (PAO), County Departments, and other identified key stakeholders	
Emergency Management	Clarify role of Multnomah County in regional emergency management efforts; develop stronger internal county response plan.	George Whitney after TOPOFF Bill Farver
State Tax Reform	Develop proposals with AOC for next legislative session (and beyond) to advance progressive state tax reform and moderate property tax limitation.	Rhys Scholes October 2
Library Funding	Consider future funding alternatives to library serial levies that offer permanent, adequate, stable funding for County library system.	Molly Raphael October 2 Rhys Scholes
Vital Aging Task Force	Develop options for County workers who are nearing retirement to retain their expertise. Create opportunities for older adults to contribute in community and workforce.	Jay Bloom January 8 Lorenzo Poe
East County Justice Center	Select site and open facility; insure that vision of closer coordination of East county and Sheriff's office law enforcement efforts is realized.	Doug Butler October 2 Bill Farver
Reducing Poverty	Create better inter-jurisdictional partnerships to align housing, services and workforce systems for improving services to low-income families and adults. Implement more strategies under Goal 3 of the Anti-poverty framework and reduce the number of families living in poverty.	Mary Li Wendy Lebow February Lorenzo Poe
SUN	Develop multi jurisdictional partnerships to solidify and expand service delivery to school students.	Joanne Fuller January 8 Lorenzo Poe

INTERNAL MANAGEMENT

ISSUE	GOAL	LEAD
Community Access to County Services	Phone System: All callers to the County have an option of hitting zero and speaking to a person. All people answering phones in the County are able to assist callers with correct information or refer them directly to the person who can assist them. County Website: Useful tool for citizens accessing County government; capacity to continually update information.	Carol Ford January 8 Johnell Bell
Budget Process	Agreed upon process to reduce deficit over several years. Emphasize more intense work on fewer issues.	Karyne Dargan (individual Board briefings) Bill Farver
Inclusiveness in Hiring/Promotion Practices	Identify issues and develop practices that lead to greater inclusiveness in county hiring, retention and promotional practices. Share Departmental approaches and get direction from Chair's office.	Travis Graves January 8 Bill Farver Lorenzo Poe



Ted Wheeler, Multnomah County Chair

501 SE Hawthorne Blvd., Suite 600
Portland, Oregon 97214
Phone: 503.988.3308
Email: mult.chair@co.multnomah.or.us

January 8, 2008

To: Board of County Commissioners

From: Chair Ted Wheeler 

Re: Next steps on management of county corrections functions

As you are aware, we have received several reports during the past few months that have detailed problems in our county jails. I agree with the recent recommendation of the 2007 Corrections Grand Jury that we need to take bold and deliberate steps to address the many managerial and fiscal issues raised in their report – including placing the management of our jails in the hands of a “professional” and “independent” manager.

I also agree with the Grand Jury that the Board of County Commissioners has an obligation to address several problems for which we are directly responsible.

I believe we need to restructure county corrections in order to meet our dual obligations to guarantee both the safety of the community and the cost-effective use of taxpayer dollars. Restructuring can help to build the level of public confidence that would be needed to pass a public safety levy if we should choose to refer such a measure to the voters.

At our December 11 Board Briefing, I offered four potential solutions to provide “professional and independent” management of county jails. Our January 8 Work Session will provide the next level of analysis – specifically, we will discuss what legal, charter and statutory changes would be needed to implement each of the four solutions (see discussion below).

It would be my strong preference to be able to recommend a single course of action for us to pursue. Unfortunately, the situation is very complex - information is still being gathered - and I believe it would be wise for us to keep several options open for discussion.

Among the several options available to us as a board, it is clear that there are some steps that we can take now under existing law. There are additional options that are available only if voters agree to amend the county charter and others still that would require the legislature to modify state statute.

I'll outline each of the current options in turn, but first I want to clarify the core objectives:

1. Improve public safety

Our most basic responsibility is to take steps that we can reasonably expect will reduce the number and severity of crimes committed in our community. Because county services are only one part of the overall public safety system we can primarily focus on the reduction of recidivism as a key marker for success.

2. Provide cost-effective services

The public rightly expects us to be prudent stewards of the taxpayer's hard-earned dollars. This means keeping costs down and focusing expenditures on the system components that are most likely to achieve public safety. We are in no position to ask the taxpayers for additional dollars for public safety until we can guarantee that we are spending the dollars we already have in an accountable manner.

3. Increase accountability

There is a growing level of frustration among community leaders regarding a lack of transparency and accountability in jail operations. Moving key management decisions from the mind of a single elected official to a public discussion among representatives of the different regions of the county is a key strategy for increased accountability.

4. Integrate budgetary and operational management

This divided responsibility is a structural flaw that is the root cause of much systemic dysfunction.

With these goals in mind, I recommend that we move forward on all of the following options with the understanding that we will narrow them as more information is gathered and analysis is completed:

A. Continue to explore cooperative management structures that could be voluntarily adopted by the Sheriff

In the presentation at the Board Briefing on December 11 we identified this as "Option D" and heard some support for it. Since that time I have met with the Sheriff and the District Attorney and we have both agreed to meet again to discuss this option in further detail. It is too soon to tell whether or not we will be able to reach agreement on this option.

B. Ask voters to modify the charter to provide for an appointed sheriff

This option would allow fully integrated corrections management without the need for any state statute changes. A potential drawback to this option is that we cannot be confident that it can be implemented before January of 2010. (An attached research brief identifies other jurisdictions that use this model.)

C. Seek charter and/or statutory changes that would increase accountability for some or all of the current county jail facilities

There are two possible elements to this option:

1. Ask voters to modify charter to remove the provision that gives the Sheriff "sole authority" over corrections functions. The necessary amendment is described in the attached County Attorney's opinion.
2. Ask the legislature to revise the Oregon Revised Statutes to enable Multnomah County voters to fully authorize correction structures that are publicly accountable rather than under the exclusive control of a single elected official. The changes necessary for this option are also included in the attached opinion.

Option B above is fully in control of Multnomah County voters. Option C above retains an elected Sheriff for law enforcement, but it requires the cooperation of the Oregon Legislature. There are good arguments for each option and the well documented problems with the status quo justify pursuing both choices.

It is certainly possible that other options may be proposed beyond what I have offered, and I am prepared to consider them. The status quo is not an option that I can support.

I agree with the recent corrections grand jury that "time is not on our side." We need to consider a possible referral to Multnomah County vote as early as the upcoming May election and that we should consider a request to the Oregon Legislature as early as the upcoming February session.

These are important issues and while we need to move quickly we also must allow time to receive and consider public opinion. I think these are the questions that we face:

1. Should we ask voters for a change to the county charter at the May election? If so, which change or changes should we place on the ballot?
2. Should we ask the legislature to revise Oregon statutes to empower local voters?
3. Should we hold a public hearing in early February to receive comments on these possible changes?

I look forward to continuing our discussion of these options with you in the very near future.

Appointed vs. Elected Sheriff's Office

Introduction

The Sheriff's office has varying roles depending on their locale. They are generally associated with counties though sometimes cities have Sheriffs. Their role often includes law enforcement, court duties and jail administration. The Sheriff's department is generally associated with localized law enforcement, such as working with neighborhoods, traffic and accident control and crime prevention measures. Their court related functions include maintenance of safety and order of court room. They also "serve court papers such as subpoenas, summonses, warrants, writs, or civil process; to extradite prisoners; to enforce money decrees (such as those relating to the garnishment or sale of property); to collect taxes, or to perform other court-related functions."¹ They are also generally in charge of jail administration. This includes operation of jails as well as detention and detoxification centers. They are also generally responsible for inmate's food and clothing and for inmate transportation and supervision..

Counties with Appointed Sheriffs

Miami-Dade Florida

Miami-Dade County (formerly Metro-Dade County) has two sheriffs/directors appointed by its county commission. The duties of the two appointed directors are as follows: One sheriff is simultaneously the Metropolitan Sheriff and the Director of Public Safety. The other is a sheriff and Director of Corrections and is charged with the care and custody of prisoners. In 1966, a long-standing controversy over the selection/election procedure for choosing a county sheriff was resolved by voter mandate leading to non-elected sheriffs who were appointed by the County Manager as "Director of the Public Safety Department and Sheriff of Metropolitan Dade County." In 1973, the responsibility for running the County's jails was transferred to the newly created Department of Corrections and Rehabilitation. By the same year, the Public Safety Department had also been divested of all other non-police responsibilities in order to concentrate entirely on law enforcement services.

Nassau County, New York

Nassau County has a split system with two distinct divisions: the Corrections Division and the Enforcement Division. "The mission of the Correction Division is to provide a safe and secure environment for the staff and inmates, while providing for the care, custody, and control of detainees and prisoners committed to its custody by the judiciary... It is the mission of the Enforcement Division to carry out the orders of the New York State Courts including the discovery and seizure of property, the execution of warrants, and to conduct evictions. The Division also assists the Department of Social Services in the location of assets of parents who fail to support their children."²

¹ "FAQ." Cabarrus County. Sheriff's Office of Cabarrus County. 12/20/07.
<http://www.cabarruslaw.us/faq_4.asp. >

² "Department Mission Statement." Nassau County. 12/21/07.
<<http://www.nassaucountyny.gov/agencies/Sheriff/>>

Westchester County, New York

In 1979, two divisions merged creating an appointed Sheriff. The "Commissioner of Safety" has several roles, acting as Sheriff and Police Chief. The department is used mainly as a civil unit. They help carry out court judgments and promote court house safety. They also have a limited patrol function mostly of the parkways and county parks and facilities (e.g. the community college.) Most of the local cities and towns have their own police forces which limits the need for Sheriff patrols. The County Sheriffs department has a strong investigative function. They have forensic investigation, computer experts, a bomb squad and aviation capacity that can be called in to help local police forces. The Sheriff is appointed by the County Executive leader and must be ratified by the County Legislature. Once appointed, the Sheriff has an indefinite term. It was changed to promote efficiency and no change has been proposed. While productivity was a major issue, there was no specific incident that led to the change.

Other Counties with Appointed Sheriffs

- Hawaii - the Office of Sheriff falls under the Sheriff Division of the Hawaii Department of Public Safety. It is the functional equivalent of a state police department and has the distinction of making Hawaii the only U.S. state without an officially named state police department and one of two with a statewide Sheriffs Department (the other being Rhode Island). Although the Sheriff Division's jurisdiction covers the entire state, its primary functions are judicial and executive protection, security at the Hawaii State Capitol, law-enforcement at Hawaii's airports, narcotics enforcement, prisoner transportation, the processing and service of court orders and warrants, and the patrol of certain roads and waterways in conjunction with other state agencies. Appointed by Chief Justice.
- City of New York - The Sheriff is appointed by the mayor and runs the Department of Corrections, Manages Jails and the Police Department. New York City comprises 5 counties: Richmond County, Queens County, New York County, Kings County, Bronx County.
- Newport County, Rhode Island- Has had an appointed Sheriff for more than 100 years. They are satisfied with their system and there is no call to change it. Takes on patrol and conventional Sheriff responsibilities.
- Kent County, Rhode Island- Always been that way. No change has been proposed.
- Broomfield County/City, Colorado- Small community which became own County/City 5 years ago (November, 2001) at which time the Police Chief became ex-officio Sheriff though there was never any formal election. It is a small community and no system change has been proposed. The change was to condense efforts to streamline the process.
- Northampton, Pennsylvania- They made the change through voter mandate in 1978 and the last elected Sheriff left office a year later. This was in line with a vote to eliminate all "row officers" who are various elected officials and convert them to appointed.
- St. Louis County, Missouri- Always been an appointed Sheriff. No call to change.

Sheriffs in the United States generally fall into three broad categories:

Full service — The most common type, provide all traditional law-enforcement functions, including countywide patrol and investigations irrespective of municipal boundaries.

Limited service — along with the above, perform some type of traditional law-enforcement function such as investigations and patrol. This may be limited to security police duties on county properties (and others by contract) to the performance of these duties in unincorporated areas of the county, and some incorporated areas by contract.

Restricted service — provide basic court related services such as keeping the county jail, transporting prisoners, providing courthouse security and other duties with regard to service of process and summonses that are issued by county and state courts. The sheriff also often conducts auction sales of real property in foreclosure in many jurisdictions, and is often also empowered to conduct seizures of chattel property to satisfy a judgment. In other jurisdictions, these civil process duties are performed by other officers, such as a marshal or constable.

Interesting Articles/Case Studies

- Pierce County Washington - <http://www.southsoundpromotions.com/IVoteYesOnOne/ballot-title.htm>
- Elected Office of the Office - [http://www.sheriffs.org/userfiles/file/The_Elected_Office_of_Sheriff - An_Executive_Summary.pdf](http://www.sheriffs.org/userfiles/file/The_Elected_Office_of_Sheriff_-_An_Executive_Summary.pdf)
- <http://www.heraldtribune.com/article/20071030/COLUMNIST36/710300356>
- National Sheriff's Organization <http://www.sheriffs.org/>
- National Association of Police Chiefs <http://www.aphf.org/nacop.html>
- National Association of Counties <http://www.naco.org/>
- <http://www.southsoundpromotions.com/IVoteYesOnOne/statements/national-sheriffs-association.htm>
- http://www.sheriffs.org/userfiles/file/Office_of_Sheriff_State-by-State_Election_Chart.pdf



OFFICE OF MULTNOMAH COUNTY ATTORNEY

AGNES SOWLE
County Attorney

JOHN S. THOMAS
Deputy County Attorney


501 S.E. HAWTHORNE, SUITE 500
PORTLAND, OREGON 97214

FAX 503.988.3377
503.988.3138

DAVID N. BLANKFELD
CARLOS J. CALANDRIELLO
SANDRA N. DUFFY
SUSAN M. DUNAWAY
STEPHANIE E. DUVAL
PATRICK W. HENRY
STEPHEN L. MADKOUR
JENNY M. MORF
BERNADETTE D. NUNLEY
MATTHEW O. RYAN
KATHRYN A. SHORT
JED R. TOMKINS
JACQUELINE A. WEBER
Assistants

CONFIDENTIAL MEMORANDUM

TO: Chair Ted Wheeler

FROM: Agnes Sowle, County Attorney
Jacqueline Weber, Assistant County Attorney 

DATE: January 8, 2008

RE: Authority over the county correctional facilities

ISSUE: Propose state statutory amendments that will allow the Board of County Commissioners to have full authority over the county correctional facilities.

Response: Add the term "county correctional authority" to Chapter 169, relating to local correctional facilities, defined as "a county sheriff or a county agency or official charged by county charter with custody and control of persons legally committed or confined in the local correctional facility." Adding this term to the statute and replacing "sheriff" with "local correctional authority" in the statutory provisions below, resolves any questions regarding preemption of county authority for custody and control of inmates in the county jail. The change does not require a county assume control of jails from the county sheriff, but does allow for exercise of that option through the county charter. Change ORS 206.090, Delivery of jail, process and prisoners to be consistent with the changes of ORS Chapter 169.

The relevant statutes, with the change inserted, are attached as Attachment A.

ISSUE: Propose language for amendments to the Charter to: 1. Change the office of sheriff from an elected position to an appointed position; 2. Remove from the office of sheriff the sole authority to administer the county jails.

Response:

Amendment 1: To change from an elected Sheriff to an appointed Sheriff, I would recommend repealing 6.50 altogether. Prior to its inclusion in 1982, the Charter did not address Sheriff's; hence the County could choose its manner of selecting Sheriff by ordinance. We would also repeal one other reference to the Sheriff.

~~6.50. Sheriff.~~

~~— The people of Multnomah County shall elect:~~

~~— (1) — A county sheriff for the function of said office as prescribed by state law and he or she shall have sole administration of all county jails and correctional institutions located in Multnomah County.~~

~~— (2) — Notwithstanding any other charter provision to the contrary, the salary for the sheriff shall be fixed by the board of county commissioners in an amount which is not less than that for any member of the sheriff's office.~~

4.50. Vacancies -- Filling.

(3) In the event of a vacancy in an elective office, the board shall by ordinance prescribe procedures to designate an interim occupant of the office. The person so designated shall serve as acting chair, commissioner, ~~sheriff~~ or auditor, as the case may be, until the office is filled by election or appointment, as appropriate under section 4.50(1).

Amendment 2: To remove the 18 month residency requirement, amend 4.10 as follows:

4.10. Qualifications.

(1) ~~An elective officer~~ **All elective officers** of the county **except the Sheriff** shall have been a qualified elector of the county for a year and a half immediately before becoming such an officer and, if a candidate for, or appointee to, a county commissioner position, then a resident of the district for a year and a half immediately before becoming such a commissioner.

ATTACHMENT A
PROPOSED AMENDMENTS TO ORS CHAPTER 169

169.005. Definitions for ORS 169.005 to 169.677 and 169.730 to 169.800.

As used in ORS 169.005 to 169.677 and 169.730 to 169.800, unless the context requires otherwise:

(1) "Detainee" means a person held with no criminal charges.

[+ "*County Correctional Authority*" means the county sheriff or county agency or official charged by county charter with custody and control of persons legally committed or confined in the local correctional facility.+]

(2) "Forced release" means temporary freedom of an inmate from lawful custody before judgment of conviction due to a county jail population emergency under ORS 169.046.

(3) "Juvenile detention facility" means a facility as described in ORS 419A.050 and 419A.052.

(4) "Local correctional facility" means a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds persons for more than 36 hours.

(5) "Lockup" means a facility for the temporary detention of arrested persons held up to 36 hours, excluding holidays, Saturdays and Sundays, but the period in lockup shall not exceed 96 hours after booking.

(6) "Month" means a period of 30 days.

(7) "Prisoner" means a person held with criminal charges or sentenced to the facility.

(8) "Temporary hold" means a facility, the principal purpose of which is the temporary detention of a prisoner for four or less hours while awaiting court appearance or transportation to a local correctional facility.

ORS 169.320 Control over prisoners; work by prisoners.

169.320 (1) Except as otherwise provided in ORS 169.170 to 169.210 each county [-sheriff-] [+ *correctional authority*+] has custody and control of all persons legally committed or confined in the county local correctional facility of the county of the sheriff during the period of commitment or confinement. Under the direction of the county court or board of county commissioners of the county, the [-sheriff -] [+*county correctional authority*+] may cause the prisoners in the county local correctional facility to engage in any work that is otherwise authorized by law. The work shall be performed at the places and times and in the manner as the court or board may direct. The [-sheriff-]

[+county correctional authority+] may retain and put to work any prisoners as may be required to perform necessary services in and about the facility.

(2)(a) If the county is located within an intergovernmental corrections entity formed under ORS 190.265, the county [-sheriff-] [+correctional authority+] of the county in which the facility is located is responsible for the physical custody and control of all persons legally committed to or confined in the facility during the period of the commitment or confinement and as provided in the intergovernmental agreement. The county [-sheriff-] [+correctional authority+] may cause the prisoners in the local correctional facility to engage in any work that is otherwise authorized by law. The work shall be performed at the places and times and in the manner as the governing body of the intergovernmental corrections entity may direct. The [-sheriff-] [+county correctional authority+] may retain and put to work any prisoners as may be required to perform necessary services in and about the facility.

(b) Notwithstanding paragraph (a) of this subsection, a [-sheriff-] [+county correctional authority+] oversight committee has the responsibilities described in paragraph (a) of this subsection if the following requirements have been met:

(A) The agreement establishing the intergovernmental corrections entity provides for the formation and operation of a [-sheriff-] [+county correctional authority+] oversight committee;

(B) A [-sheriff-] [+county correctional authority+] oversight committee consisting of the sheriff of each county that is a member of the intergovernmental corrections entity has been formed; and

(C) Each [-sheriff-] [+county correctional authority+] has an equal vote on the sheriff oversight committee.

(c) A [-sheriff-] [+county correctional authority+] oversight committee formed as described in this subsection has all the duties and liabilities regarding the management of the local correctional facility and the physical custody and control of all persons legally committed to or confined in the facility as described in ORS 169.320 to 169.360 and 169.610 to 169.677.

169.330. Civil liability for release of prisoner.

When a prisoner has been committed to the county local correctional facility to be held until the prisoner has paid a sum of money to a private party, or a fine or penalty to the state, and is permitted to depart the facility without legal order or process, the private party or the state may recover in a civil action against the [-sheriff-] [+county correctional authority+], the damages sustained by reason of the prisoner's departure.

169.340. Liability for escape of defendant in a civil action.

(1) A [-sheriff-] [+county correctional authority+] who suffers the escape of a prisoner, arrested or in a local correctional facility, without the consent or connivance of the party on whose behalf the arrest or imprisonment was made, is liable to an action by such party, as follows:

(a) When the arrest is upon an order of arrest in a civil action, suit or proceeding;

when the presence of the defendant at the return of the summons is necessary to enable the plaintiff to proceed therein, and the defendant does not appear at the time and place specified in the summons.

(b) When the arrest or imprisonment is upon an order of arrest in any other civil action, suit or proceeding, or upon a surrender in exoneration of the sheriff or security release, and the defendant is not found upon an execution against the person of the defendant issued to the proper county on a judgment in such action, suit, or proceeding.

(c) When the arrest is on an execution or commitment to enforce the payment of money, and the party interested is not recaptured or surrendered into custody at the expiration of the time limited for the service thereof, or legally discharged therefrom.

(d) When a person is imprisoned on an execution or commitment to enforce the payment of money, and the person escapes after the time limited for the service, and is not recaptured or surrendered before an action is commenced for the escape.

(2) The measure of damages in an action brought under subsection (1) of this section, is as follows:

(a) For the escape mentioned in subsection (1)(a) of this section, the actual damages sustained.

(b) In any other case, the amount expressed in the execution or commitment.

169.350. Liability for failing to serve papers.

When a sheriff or the officer of the sheriff, upon whom is served a paper in a judicial proceeding directed to a prisoner in the custody of the [-sheriff or officer-] [+county correctional authority+], fails to forthwith deliver it to the prisoner, with a note thereon of the time of its service, the sheriff is liable to the prisoner for all damages occasioned thereby, and if the sheriff or officer willfully fails to so act, such sheriff or officer is guilty of a misdemeanor.

169.360. Appointment of keeper of local correctional facility.

The [-sheriff-] [+county correctional authority+] may appoint a keeper of the county local correctional facility, to be denominated the jailer, for whose acts as such the [-sheriff-] [+county+] is responsible. The appointment shall be in writing, and [-the sheriff shall file -] a certified copy thereof in [+shall be filed in+] the office of the county clerk.

169.530. Duty to receive federal prisoners.

The [-sheriff-] [+county correctional authority+] shall receive and keep in the county local correctional facility every prisoner who is committed thereto under civil or criminal process issued by a court of the United States, until the prisoner is discharged according to the laws thereof, as if the prisoner had been committed under process issued by the authority of this state. The prisoner shall receive all sums payable by the United States for the use of the facility, and remit such sums to the county treasurer not later than the first day of the month succeeding their receipt. A [-sheriff-] [+county correctional authority+] or jailer to whose custody

such prisoner is committed is answerable for the safekeeping of the prisoner in the courts of the United States, according to the laws thereof.

Amend ORS 169.042 to 169.046 relating to establishing maximum local correctional facility population and emergency population releases as follows:

169.042. Maximum facility population; recommendation.

The county court or board of commissioners of a county may institute an examination of the county's local correctional facility for the purpose of obtaining a recommendation regarding the maximum number of inmates that should be held in the facility. This recommendation shall be based on consideration of the following:

- (1) The advice of the district attorney, county counsel and [- sheriff -] [*+ county correctional authority +*] concerning prevailing constitutional standards relating to conditions of incarceration;
- (2) The design capacity of the local correctional facility;
- (3) The physical condition of the local correctional facility; and
- (4) The programs provided for inmates of the local correctional facility.

169.046. Notice of county jail population emergency; action to be taken; notification if release of inmates likely; forced release.

(1) If a county court or board adopts a jail capacity limit under ORS 169.044 and the number of inmates in its local correctional facility exceeds that capacity limit so that a county jail population emergency exists, the [- sheriff -] [*+ county correctional authority +*] shall notify the presiding circuit judge, each municipal court judge and justice of the peace in the county, the district attorney for the county, the county counsel, the chief law enforcement officer for each city located in the county and the county court or board of commissioners that the number of inmates in the local correctional facility has exceeded capacity and that a county jail population emergency exists.

(2) If the county court or board has adopted a jail capacity limit and action plan under ORS 169.044 and if a county jail population emergency occurs under the terms of the plan, the county court or board and the county [- sheriff -] [*+ county correctional authority +*] may carry out the steps of the plan. This includes any authorization, under the plan, for the [- sheriff -] [*+ county correctional authority +*] to order inmates released in order to reduce the jail population. A [- sheriff -] [*+ county correctional authority +*] shall be immune from criminal or civil liability for any good faith release of inmates under ORS 169.042 to 169.046.

(3) If it becomes necessary to order inmates released under ORS 169.042 to 169.046, or if it appears to the [- sheriff -] [*+ county correctional authority +*] that release of inmates is likely to become necessary in the near future, the [- sheriff -] [*+ county correctional authority +*] shall immediately notify all police agencies in the county to make maximum use of citations in lieu of custody pursuant to ORS 133.055 to 133.076 until further notice.

(4) If it becomes necessary to order the release of inmates under ORS 169.042 to 169.046, the [-sheriff-] [+ *county correctional authority*+] may place inmates on forced release subject to a forced release agreement. A forced release agreement must be in writing and be signed by the sheriff and the inmate and must include:

- (a) The date of the next court appearance of the inmate;
- (b) A statement that the inmate is required to appear at the next court appearance; and
- (c) A statement that failure of the inmate to appear at the next court appearance is subject to prosecution under ORS 162.195 or 162.205.

169.115. Temporary leave.

(1) Any prisoner serving a sentence in a county jail may be eligible for temporary leave for a period not to exceed 10 days for the purpose of visiting a seriously ill relative, attending the funeral of a relative, or obtaining medical services not otherwise available.

(2) All requests for temporary leave must be presented to the sheriff for examination. Exemptions shall be restricted to those prisoners who are considered a possible threat to society, or those who pose a risk of not returning at the termination of such leave.

(3) Upon determining that circumstances are suitable for a prisoner to be granted temporary leave, the [-sheriff-] [+ *local correctional authority*+] may grant leave to the prisoner and fix the duration and conditions of the leave.

(4) In adopting rules governing temporary leave, the [-sheriff -] [+ *local correctional authority* +] shall consult with the Department of Corrections in an effort to establish statewide uniform rules governing temporary leave for county jail prisoners.

169.220. Care of county prisoners.

All persons lawfully confined in a county local correctional facility, or as prisoners engaged in work under the custody and jurisdiction of a county, shall be fed and maintained at actual cost to the county. All persons confined in a county local correctional facility shall be given three meals per day. An accurate account of each meal furnished to others than inmates of local correctional facilities, together with the names of the recipients thereof, whether facility employees or otherwise, shall be kept and reported by the sheriff each month to the county court or board of county commissioners. The county court or board of county commissioners shall furnish the [-sheriff-] [+ *local correctional authority*+] with adequate equipment and supplies for carrying out the provisions of this section. The [-sheriff-] [+ *local correctional authority*+] has authority to employ such assistance therefor as may be necessary. All supplies and equipment needed to feed and maintain such persons as provided in this section shall be purchased by the county court or board of county commissioners upon requisitions duly verified and presented by the [-sheriff-] [+ *local correctional authority*+] to the county court or board of county commissioners. All supplies so purchased shall be paid for by warrant drawn upon the general fund of the county,

upon presentation of vouchers containing itemized statements of all supplies so furnished, duly verified by the [-sheriff-] [+local correctional authority+] and by the person selling the same, each of whom shall certify that the supplies were actually furnished and received in the quantities represented and were of good quality, and that the price charged therefor was reasonable and just.

206.090. Delivery of jail, process and prisoners to new sheriff.

Within one day after the service of the certificate referred to in ORS 206.080 upon the former sheriff, the former sheriff shall deliver to the successor:

- (1) The jail of the county, with its appurtenances and the property of the county therein, [*+if the sheriff is the county correctional authority under ORS Chapter 169+*].
- (2) The prisoners then confined in the county jail, [*+ if the sheriff is the county correctional authority under ORS Chapter 169+*].
- (3) The process or other papers in the custody of the former sheriff, authorizing or relating to the confinement of the prisoners, or if they have been returned, a written memorandum of them and the time and place of their return.
- (4) All process for the arrest of a party, and all papers relating to the summoning of jurors which have not been fully executed.
- (5) All executions and final process, except those which the former sheriff has executed, or has begun to execute, by the collection of money or a levy on property.
- (6) All process or other papers for the enforcement of a provisional remedy not fully executed.