

MULTNOMAH COUNTY CHARTER, Vol. 2, Bk. 1
-Civil Division

CIVIL

DIVISION

PRELIMINARY REPORT
ON THE
ORGANIZATION,
COMPOSITION, &
RESPONSIBILITIES
OF THE
CIVIL DIVISION
OF THE
SHERIFF'S OFFICE
OF
MULTNOMAH COUNTY, OREGON

W. C. MERRELL
Executive Secretary
Home Rule Charter Committee
December 22, 1964

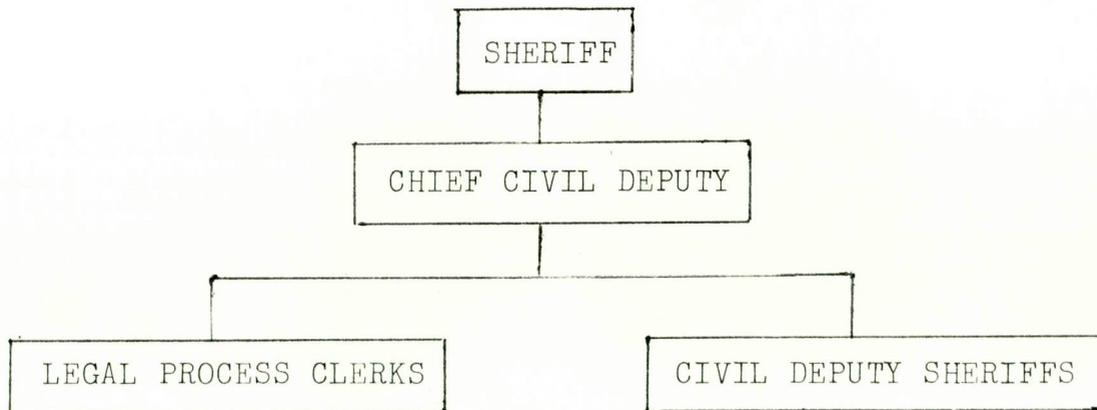
The Sheriff of Multnomah County has three basic responsibilities: (1) Law Enforcement, (2) Tax Collection, and (3) Civil Process. This preliminary report will concern itself only with the organization, composition, and responsibilities of the Civil Division.

These findings are based upon a review of the 1964-65 fiscal year budget request, the Oregon Revised Statutes, and interviews with the supervisory personnel of the Office of the Sheriff and his Civil Division. This report is not complete, nor is it intended to be. Minor inaccuracies may be found, but since the membership requested copies of the work in progress, it must be expected that the early errors of any analysis will be included.

No effort has been made to evaluate the competence of the Sheriff or any part of his department. The scope of this preliminary report is limited to present organization and statutory responsibilities.

A review of the Civil Division reveals an activity employing 13 personnel with a salary budget in excess of \$83,000. It is headed, under the Sheriff, by a Chief Deputy who is appointed under Civil Service drawing a salary of \$8,268 per year. Chart I is the operational organization of the office.

CHART I

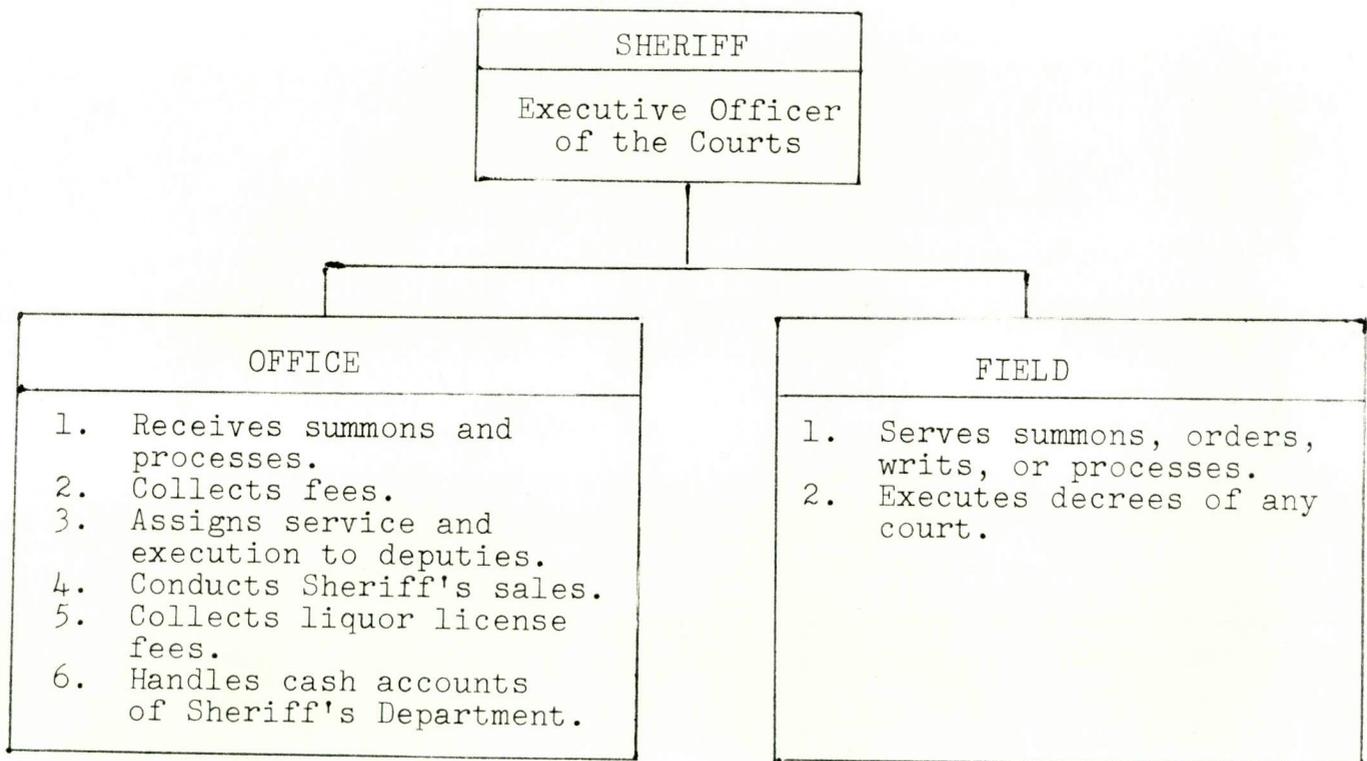


As contrasted with the Office of the Constable who serves as the executive officer of the District Court, the Sheriff is the executive officer of any court although, in terms of volume, he is primarily the executive officer of the Circuit Court. His statutory duties are as follows:

- (1) Serves summons, writs, orders, or processes.
- (2) Executes decrees of any court.

Reduced to its simplest terms, the functional duties of the Sheriff as they relate to civil process are indicated on Chart II.

CHART II



Appended hereto are the basic statutes pertaining to Sheriffs relating to Civil Process. It should be noted that in most of the counties in Oregon, the Sheriff performs the total job of civil process including the duties assigned by statute to the Constable of the Portland District.

DUTIES OF SHERIFF

206.010 General duties of sheriff. The sheriff is the chief executive officer and conservator of the peace of the county. In the execution of his office, it is his duty to:

(1) Arrest and commit to prison all persons who break the peace, or attempt to break it, and all persons guilty of public offenses.

(2) Defend his county against those who, by riot or otherwise, endanger the public peace or safety.

(3) Execute the process and orders of the courts of justice or of judicial officers, when delivered to him for that purpose, according to law.

(4) Execute all warrants delivered to him for that purpose by other public officers, according to law.

(5) Attend the terms of the Supreme, circuit, or county court held within his county, and to obey its lawful orders or directions.

206.020 Keeping records of and disposition of fees. (1) Every sheriff shall keep in his office a fee book or a system of receipts which shall be a public record, and in which shall be entered promptly all items of services performed and fees collected, with the name of the person for whom such services were performed, and the amount collected.

(2) The sheriff shall deposit each month with the county treasurer all such sums collected by him during the month next preceding, except the sums received for the care or preservation of property, and shall take the treasurer's duplicate receipts therefor, which receipts shall specify the kind of service performed, for whom performed, and the amount received for such service.

(3) The sheriff shall immediately file one of the receipts with the county auditor and, if there is no county auditor, with the county clerk.

206.030 Duty to execute process and make return. An officer to whom any process, order or paper is delivered shall execute or serve it according to its command or direction, or as required by law, and must make a written return of the execution or service thereof.

206.040 Execution of process and service of papers. When any process, order or paper is delivered to an officer, to be executed or served, he shall deliver to the person delivering it, if required, on payment of

his fee, a written memorandum, specifying the names of the parties in the process, order or paper, the general nature thereof and the day on which it was received. He shall also, when required by law, or upon the request of the party served, without fee, deliver to him a copy thereof.

206.050 Commanding assistance in process serving. (1) When an officer finds, or has reason to apprehend, that resistance will be made to the execution or service of any process, order or paper delivered to him for execution or service, and authorized by law, he may command as many male inhabitants of his county as he may think proper and necessary to assist him in overcoming the resistance, and if necessary, in seizing, arresting and confining the resisters and their aiders and abettors, to be punished according to law.

(2) National guard members are exempt from any service commanded under subsection (1) of this section while they continue to be active members.

[Amended by 1961 c.454 §209]

206.060 When sheriff justified in executing process. A sheriff is justified in the execution of process regular on its face, and appearing to have been issued by competent authority, whatever may be the defect in the proceedings in which it was issued.

206.070 Excusing liability of sheriff in execution of process. No direction or authority by a party or his attorney to a sheriff or his officer, in respect to the execution of process or the return thereof, or to any act or omission relating thereto, can be shown to discharge or excuse the sheriff from a liability for neglect or misconduct, unless it is contained in a writing signed by the party to be charged or affected thereby or his attorney.

206.110 Return of process by former sheriff; completion of execution of process by successor; duty of successor as to defective or lost deeds. (1) The former sheriff shall return all process, whether before or after judgment or decree, which he has fully executed, and the new sheriff and his successor in office shall complete the execution of all final process which his predecessor commenced and did not complete.

(2) In all cases where real property is sold under execution by any sheriff, and he fails or neglects during his term of office, by virtue of the expiration thereof, or otherwise, to make or execute a proper sheriff's deed conveying the property to the purchaser, or if through mistake in its execution, or otherwise, any sheriff's deed is inoperative, or if by reason of the loss of an unrecorded sheriff's deed, the purchaser, his heirs or assigns or successors in interest desire the execution of another sheriff's deed, the sheriff in office at any time after the purchaser is entitled to a deed shall execute such conveyance. When executed to cure or replace a defective or lost deed such conveyance shall be to the grantee in the defective or lost deed, but shall relate back and be deemed to take effect as of the date of the execution of the defective or lost deed so as to inure to the benefit of the heirs and assigns, or other successors in interest, of the grantee named therein. Such conveyance so executed by the sheriff in office shall have the same force and effect as if executed by the sheriff who made the sale.

206.120 Disposition of money in custody when office vacant. When the official term of office of any sheriff ends by expiration of his term, death, resignation, removal from office or otherwise, the money in his custody by virtue of his office shall be

15.060 Officer or person to serve summons; return; indorsement of delivery date; compensation of person serving summons taxed as disbursements. (1) The summons shall be served by the sheriff of the county where the defendant is found, or his deputy, or by any competent person over the age of 21 years who is a resident of the State of Oregon and is not a party to or an attorney in the action. The summons shall be returned to the clerk with whom the complaint is filed within 60 days after its delivery to the person for service, with proof of such service, or that the defendant cannot be found. A person, other than an officer, making such service shall make proof thereof by his affidavit in the same manner as provided in ORS 15.110. When served out of the county in which the action is commenced, the summons may be returned by mail. The person to whom the summons is delivered shall indorse thereon the date of such delivery.

(2) Compensation to such person serving the summons shall be equal to that as is prescribed by law for sheriffs who perform that service. This compensation shall be part of the disbursements and shall be recovered as provided in ORS 20.020.

[Amended by 1955 c.165 §1]

SHERIFF'S FEES

21.410 Sheriff's fees and mileage allowance for services in civil actions, suits and proceedings. The sheriff of every county shall, in all civil suits, actions and proceedings, collect in advance the following fees:

- (1) For serving summons directed to a single defendant, in addition to mileage, \$2.
- (2) For serving summons directed to two or more defendants, in addition to mileage, \$2 for the first defendant, and for each additional defendant, 75 cents.
- (3) For return of summons "not found," in addition to mileage, 50 cents for the first defendant, and 25 cents for each additional defendant.
- (4) For serving subpoena, notice, citation, order or other paper not herein described, for the first-named witness or party, \$1.50, and for each additional witness or party served, 50 cents.
- (5) For executing any provisional remedy, \$2.
- (6) For making an inquest by jury for the trial of rights of property, \$3.
- (7) For taking and approving any undertaking or bond, 50 cents.
- (8) For making a copy of any process, order, notice or other instrument in writing, when necessary to complete the service thereof, for each folio, 50 cents; but no charge shall be made for copy of complaint or other paper not actually made by the sheriff.
- (9) For serving any writ for the enforcement of a judgment or decree other than execution, \$2.
- (10) For serving or collecting an execution or decree other than for the sale of land, on the amount realized as shown by the sheriff's return, one percent on the first \$1,000 and one-tenth of one percent on the excess over \$1,000.
- (11) For selling land on execution or decree, \$5.
- (12) For making a conveyance of real property, sold on any process, to be paid by or for the grantee, \$2.
- (13) For making a certificate of sale of personal property when required or demanded, to be paid by or for the purchaser, \$1.
- (14) For making a certificate of sale of real property, \$1.
- (15) For returning an execution when no property can be found, 50 cents.

(16) For certifying and serving writ of attachment or execution, \$1 for each service, and if by garnishment, in addition, for each garnishee served, 50 cents.

(17) For making any certificate not hereinbefore described or referred to, except returns upon the writs and processes in this section enumerated, 75 cents.

(18) For actual and necessary travel in the serving of any summons, process, subpoena, or other paper required to be served, mileage at the rate of 10 cents a mile going and returning, and no more, but when two or more parties or witnesses in the same suit, action or proceeding are found in the same general direction from the county seat, mileage shall be charged only for the one living farthest from the county seat, and no charge shall be made for constructive mileage in any case.

(19) For the care of property in his custody under an attachment, execution, proceeding for claim and delivery or other civil proceeding, such sum as may be reasonable and necessary to secure each keeper or custodian necessarily employed in such care.

(20) For seizure of personal property under writ of attachment, writ of execution, claim and delivery, lien notice, chattel mortgage, or other process or proceeding, \$4 for each one-half day or fraction thereof necessarily expended therefor.

(21) For removal of personal property upon an eviction, \$4 for each one-half day or fraction thereof necessarily expended therefor.

(22) For any service not hereinbefore specified which the sheriff may be by law required to perform for parties in civil suits, actions or proceedings, such fee as may favorably compare with the fees hereinbefore fixed and established for similar services, or as may be fixed and established by order or rule of a court of competent jurisdiction. [Amended by 1959 c.620 §1]

21.420 Itemized statement of fees. The return on any summons, process, subpoena or other paper served by a sheriff shall be accompanied by a subjoined itemized statement of the charges made for the service thereof, including the mileage actually and necessarily traveled in making the service.

SHERIFF DONALD CLARK'S REMARKS TO HOME RULE CHARTER COMMITTEE
JANUARY 5, 1965, ROOM 384 MULTNOMAH COUNTY COURTHOUSE

The Office of Sheriff is an elective office. There are three departments of county government under the office of Sheriff. Each one of these is headed by a chief, so this could be thought of in terms of a Cabinet. There are also people in my executive office. I have a tax department with five divisions. I have a police department with three divisions. I have a civil department with two divisions. These three chiefs report directly to me. One of the things that has been discussed is the possibility of a strong body of County Commissioners under home rule. The argument people will give to this, and I tend to agree, is that it does not allow for separation of power at the county government level which is a traditional part of American government. The checks and balances are gone. Of course, there should be considered the idea of a strong executive officer in county government as an elected official with the Board of County Commissioners serving as the legislative body. There are, of course, several other possibilities.

We are talking today about the civil functions of the Sheriff. The Sheriff, as you probably already know, was established about the time of King Alfred at the end of the ninth century in England. He is the oldest county officer in existence. He is almost synonymous with the word "county". It is a tradition that was brought over from England to this country. The idea of the western Sheriff, the idea of a strong sherrif, is a traditional idea in the American people's minds. Under the Oregon law where it quotes what the Sheriff is, it says the Sheriff is the chief executive officer of the county. In fact Mr. Rocks and I were discussing the idea that if a chief executive officer such as a county mayor were elected, his title should be the title of Sheriff. This should be what he is called, because this is the executive officer of the county.

When we talk about some kind of realignment of functions in county government, I think it depends on what kind of county government organization we are going to have as a result of a home rule charter. Are we going to retain all the elected officials? Are some offices going to go, but not others? Are we going to have all of them go and just have a strong board without separation? Are we going to have separation with a chief executive officer? All of these things naturally are important. In the event that this charter commission would come up with the idea that they wanted a strong commission, but did not see fit to have an executive officer elected by the people, but that the commission would also appoint the executive, which would mean then that the legislative and the administrative would both be under the same group of people in command, then I can see some kind of a situation where possibly the commission would consider having the various civil process function and the filing function go into some kind of court administrator, in the event that there wasn't a Sheriff anymore. In the event they retain the Sheriff, but did not retain the other elected officials, and although the Sheriff was still not the executive officer in reality, but only in title, I can see where the Sheriff might end up with the entire function. In the event that they retain all elected officials, I can see where you might consider expanding the Constable's office to take some of that function or some other court administrator function.

I feel very strongly about the tradition of Sheriff, and I think that the American people feel very strongly about the tradition of Sheriff, and I would point out that the counties in Oregon that have gone to home rule have retained the office of Sheriff as an elected office, that in all of California where they have home rule, they have retained the Sheriff. I think this is one of our glamorous traditions. Good Sheriffs or bad Sheriffs, and this county has had both, we are still colorful people. People are interested in the Sheriff and I think it is sufficient to say they are.

(Reads prepared material. Inserts after paragraph on lawsuits): I received a little report the other day from the civil department that we are currently caught up 100% in what we are trying to do in our process serving and that we are not being sued right now. Which is kind of a coup, when I have a time when I am not being sued in one of my departments. One other thing I would like to insert here is that the idea of the prestige of the title of Sheriff sometimes, I am informed by my personnel, makes the process serving a little easier than it would if they would just say, "I am the county process server." There seems to be an aura about the term, "I am a deputy sheriff". Also I am informed by my tax collection people that the tax collection should be under the Sheriff because it is one of his traditional functions in even ancient England and besides there are people who would not pay their taxes if the Sheriff was not collecting them, which may or may not be so. Even in those counties that have taken the function of tax collecting from the Sheriff and given it to the Assessor or some other officer of county government, they have found that when they have to go out and seize or collect delinquents, the Sheriff has to do it anyway. So he doesn't have the easy ones, but he still has the nasty ones.

(Continues to read prepared narrative. Inserts after paragraph regarding clerks being familiar with more than one desk): Of course, this is an administrative decision. You are going to ask, I imagine, is there any room for policy making? I say yes there is. I think in almost any area of county government there is room for policy making. We made a policy decision that says that no civil deputy, in fact no deputy sheriff, will receive gratuities from something that arises out of his work. It could be special service in the civil department. One of the traditions, and I suppose it is still carried on in most counties in Oregon, is that the attorney will pay a special fee directly to the man for some little additional service granted. We grant the service, but we do not allow the gratuity to be paid by any attorney or anyone else asking for the special service. This is a policy making decision. So there are policy making decisions to be made in this office or in any other office, as far as I am concerned.

Mr. Birnie: Is moonlighting a policy decision?

Mr. Clark: Moonlighting is most certainly a policy decision.

Mr. Birnie: You could permit it, if you wanted to?

Mr. Clark: I do permit it on a limited basis.

Mr. Birnie: The former Sheriff did not permit it?

Mr. Clark: It was never totally closed down, contrary to public belief. There were certain exceptions. When we talk about police, I will bring that study up. I had a committee of citizens come in and meet with t committee of my own personnel. These were prominent citizens. One was a Professor of Phsycology at Portland State that gave freely of his time. I think I probably received \$1000 worth of free service from industrial phsycologists and from labor and so on. They spent a number of weeks studying this matter and came up with quite a complete report and a recommendation of policy, which I adopted as it was given. It has worked out very well. We have had no problems whatsoever. We used to have several problems, but since we adopted the policy, we have had none at all. I would be happy to furnish a copy of the document to you when we study police. It is a very interesting study.

(Continues with narrative. Inserts after paragraph on service of process after normal office hours): To sum all that up. It has been the policy of the civil department to give whatever service an attorney requests. Even if it doesn't seem justified to us, we still do it. For instance, if an attorney were to say, "Well now, that guy is going to show up sometime during the next three nights," and the attorney requests us to sit a deputy, we have been sitting a deputy there. Of course, this does not, administratively, make sense because of the expense involved. We are exploring some of these things with the District Attorney now regarding just how far we have to go in these areas.

(Continues with narrative. At end of narrative reads 206.010 Oregon Revised Statutes.)

MULTNOMAH COUNTY SHERIFF
DONALD E. CLARK

COURT HOUSE, PORTLAND, OREGON 97204
227-8441



January 5, 1965

CIVIL DEPARTMENT - SHERIFF'S OFFICE

The duties of the Sheriff's Civil Department are defined by statute.

Primary functions include the following:

To execute the process and orders of the courts of justice or of judicial officers, when delivered to him for that purpose, according to law, . . .

To attend the terms of the Supreme, Circuit or County Court held within his county, and to obey its lawful orders or directions. (ORS 206.010)

To keep public records of all services performed and fees collected, which fees shall be deposited with the county treasurer each month. (ORS 206.020)

To execute process, order or paper, according to its command or direction, or as required by law and make written return of the execution or service thereof. (ORS 206.030)

Court decisions as well as the opinions of the Attorneys General of the State of Oregon and the opinions of the Multnomah County District Attorneys have a bearing on the duties of the Civil Department; particularly when technical aspects of statute interpretation are involved.

The department serves or executes some 36 different types of process, orders and papers. These include the service and



MEMBER



II-5-11



execution of civil papers on such matters as divorce, attachment, eviction, damage cases, garnishments of wages and of bank accounts, mortgage foreclosures, lien foreclosures, and sales of both real and personal property as well as other civil matters of the courts.

Some papers permit or require two or more methods of service or execution, depending upon the circumstances of an individual case; others permit only one special method as set out in the statutes and/or the court decisions. From October, 1963 through October, 1964 the Civil Department received 26,499 papers for filing and service. The department operates with 13 personnel and is headed by a Chief Civil Deputy directly responsible to the Sheriff. Functioning directly under the Chief Civil Deputy is a Senior Legal Process Clerk who is charged with the supervision and assignment of the 11 additional members of the department. Of these, 5 are classified as Legal Process Clerks. Their duties are normally performed within the confines of the office with the exception of conducting Sheriff's sales. The remaining 6 members of the department are classified as Civil Deputy Sheriffs and work in the field.

All Civil Department personnel are commissioned as Deputy Sheriffs in order to legally perform their duties. All are vulnerable to lawsuits resulting from the manner in which their functions are discharged.

Office personnel, Legal Process Clerks and Chief Civil Deputy, perform the following general duties:

1. To receive for filing all civil papers;
2. To charge statutory fees and mileage expense;

3. To docket all cases in the official dockets;
4. To determine whether the papers are properly drawn up;
5. To assign the papers to the field deputy of the proper district;
6. To supervise the work of the field deputies;
7. To make returns to the proper courts;
8. To conduct Sheriff's sales of real and personal property;
9. To receive and disburse money for this department and certain other departments of the Sheriff's Office.

Each clerk is expected to be familiar with more than one desk so that he can take care of the work of another desk during an emergency or absence of another clerk.

Most of the bookkeeping work is done by the County Auditor. Office personnel total the receipts and turn them in to the County Treasurer each day. The books are kept and reports made by professionals. Receipts from fees charged to attorneys amounted to \$55,407.11 for the year 1964. These monies become a part of the County's General Fund.

Field personnel, Civil Deputy Sheriffs, perform the following general duties:

1. Service of civil papers;
2. Attach, levy upon and/or seize personal property;
3. To evict people and their property from real property;
4. To prepare daily reports and service reports for their work and to sign the returns therefor which are prepared by the office personnel.

Civil Deputy Sheriffs are assigned county-owned automobiles equipped with two-way radio and siren. Civil Deputies are responsible for all service within a given district. The downtown deputy does not use a vehicle for his district but may be assigned a car when other deputies are off duty. The extraordinary services, such as attachments, evictions, etc., are made by one or more deputies as the individual cases may require. In some instances it has been necessary to use office personnel in the field.

The major operational problem encountered by the Civil Department is one of being unable to foretell the needs and demands of attorneys for the service of papers. While there is often justification for special services before and after normal office hours as well as on weekends, the office has no recourse in the event a service does not appear to warrant this kind of special attention. This area and its legal ramifications is being explored to provide the department with a guide on which to base an operating policy.

It is felt that this committee in studying departments and functions might determine a method whereby the service of process and related types of filings may be more logically and efficiently grouped.

QUESTIONS ASKED BY HOME RULE CHARTER COMMITTEE OF SHERIFF CLARK
MEETING OF JANUARY 5, 1965, RM. 384 MULTNOMAH COUNTY
COURTHOUSE

Mr. Birnie: Do you think that the Sheriff should be bonded?

A. Yes, I think the public has the right to expect some kind of cover for any misdeeds. However, it does get a little ridiculous. The Sheriff is bonded only for \$10,000 for his duties as Sheriff and \$100,000 for his duties as tax collector. I don't feel that this really protects the public. If you really had an evil Sheriff, he could get away with more than that in a couple days as a tax collector.

Mr. Birnie: Then you don't feel that \$100,000 is enough as tax collector?

A. No, I really don't, if you are going to bond.

Mr. Birnie: What do you think would be a sufficient bond for the Sheriff in his civil capacity? \$10,000?

A. Well, that is for the Sheriff in all his capacities as Sheriff other than tax collector. I don't really know. Clarence, what do you think?

Mr. Conn: The biggest judgment against the Sheriff in this county in recent years was \$12,000.

Mr. Clark: If I remember correctly, didn't he have to raise some of that personally? (Then Sheriff Schrunk)

Mr. Conn: Mr. Schrunk had to raise a bond personally to cover while he was appealing the case. It was eventually resolved in his favor.

Mr. Clark: What it might do, though by raising the bond, it might make people sue for more. I get sued fairly often, as I am sure you are aware, for the acts of some of my deputies. Most often these are harassment suits that don't really amount to anything. They are usually resolved in court in our favor. I don't think I have had one suit against me for the acts of my civil deputies and this was probably the area where most of the suits were filed during Sheriff Lambert's and Sheriff Schrunk's time, I think.

Mr. Birnie: In connection with your public liability. Say one of your deputies gets mad at a lawyer and reaches across the counter and gives him a pop in the nose. That, of course, would not be covered by the bond. Do you think that the county should be legally responsible for the negligence or the intentional acts of your deputies?

Mr. Clark: Are you referring to this new act that was passed during the last Oregon legislature on the reorganization of the Sheriff's office?

Mr. Birnie: No, I would like to know from you, Mr. Clark, whether you think that somebody acting as your employee or as a civil service employee under your jurisdiction, should be covered as you are covered, by the county for your towards or intentional acts?

A. They are currently. This is a matter of philosophy. Yes, I think the county, rather than I, should be held responsible. Traditionally, I have been held responsible for every act of every man that works for me. I had the law changed and this is not so anymore. The county now is responsible for their towards and acts, even their negligent or their willful acts.

Mr. Birnie: Does that go for all county employees?

A. No, it does not. It refers only to the Multnomah County Sheriff's Office.

Mr. Birnie: Do you think it should go for all county employees?

A. The Sheriff deals in matters of sensitivity that most areas of county government do not get involved in. My policemen may get into a situation in a grand barroom scramble. The other members of county government do not get involved in this type of thing.

Mr. Birnie: We have a County Health Officer who has a little trouble in connection with a mental patient.

A. Yes, well, I can visualize that.

Mr. Birnie: There are other exposures to the public in addition to the Sheriff's office.

A. Most of them not nearly as sensitive. In the Health Department, I agree, that people who handle mental patients certainly run into things like this. I recall the instance where one man was killed and one man grossly injured by a mental patient out in Southeast Portland. Of course, my deputies are assaulted and accused of assaulting, etc. This is, again, a matter of philosophy. I believe that generally, where you charge a man with certain responsibilities that have to do with his job, that if he is performing his job, probably the county should be responsible for that man. At least, in a limited way. There has been some discussion on making him liable up to a certain amount of money for his own acts, particularly in the toward area, and the county take over from then on. This would tend to have a deterrent effect, they think, on anybody thinking, "Well, I've got all this power and everybody is backing me up". This is something I would probably agree to and it may well be entered in the next Oregon legislature. To make the deputy individually liable up to \$250 for willful or gross negligent acts on his part, and then the county take over. I think this is a responsible approach to this thing.

Mr. Birnie: Do you lobby in the legislature?

A. Yes, I certainly do.

Mr. Birnie: Do you think the taxpayers of Multnomah County should pay money for the Sheriff or any other county official to go down and lobby measures in the legislature?

A. Yes, I do, in the areas that I lobby in. I lobby in the areas of criminal law and reorganization and changed administrative workings of county government. I think that a public official has an area of leadership that he should provide. I think that when the people elect him, they elect him not only to serve in the capacity of the administrator, but also to serve in the capacity of a leader in those areas. And I think that when a matter of criminal law or tax collection or civil process serving functions comes up before the legislature, the people that deal with this, as elected officials by the people, should have the responsibility of leadership and should appear before the legislature and go on record as to where they stand.

Mr. Birnie: I was referring to the lobbying for a statute that took the liability off the shoulders of the Sheriff and put it on Multnomah County.

A. I think that this is definitely something that had to do with the administrative workings of the Sheriff's office and it was a proper thing for the Sheriff of Multnomah County to be heard from before the legislature.

Mr. Birnie: You don't think there should be any prohibition in the charter we prepare that would limit or prevent the Office of the Sheriff or any other office, whether elective or appointive, from lobbying before the state legislature?

A. Not a man elected by the people. I do not. I think this is, as I say, a matter of philosophy and my philosophy says that those people elect him to provide leadership in those areas he is concerned with.

Mrs. Damskov: An, if your constituency does not care for what you are lobbying?

A. Then they can throw you out at the next election. Or, if you are too bad, they can recall you.

Mr. Stephenson: I agree with the lobbying principle. However, I am not sure that each person in the county structure should proceed on his own to lobby his own pet. It seems to me that these things should be channelled, maybe through the Commissioners office, and then a decision made at that level, and then a procedure had.

A. I agree with that principle; however, the Board of County Commissioners does not have any administrative control over me as Sheriff. They have the power of the "purse strings" over me. They have legislative power over me currently, although limited in this county. Now, in the event that there was a county administrative officer, elected by the people, say a county mayor or a county sheriff, call him what you may; then I can see that this man could run his own show. None of my people would appear before the Oregon legislature without my consent and having been briefed on what my policy is and having told me what they are going to say. If I did not want them to appear, they would not appear. But I am the elected official here, and I have the responsibility back to the people. I am an elected officer of three departments of county government. These people wouldn't think of going down there. There is control. But, I am elected by the people and responsible to them for leadership in these areas.

Mr. Stephenson: Just theoretically, suppose Mr. Haggerty indicated the civil processing should be in his department and you thought it belonged in yours. You both go down to the legislature and say, "Give it to me". Now, is that good government?

A. I don't think it is particularly bad government. I am not necessarily one of those who thinks we should retain all public officials elected. I do not necessarily agree with this. I would hate to see a situation evolve eventually where we didn't have a way for people to do their apprenticeship in American politics by local government. I think that would be bad. At the same time, I do not think that just because you elect somebody, you are going to have good government. You could go to the ridiculous extreme where you are electing a sanitary engineer. I don't agree with these kinds of things. I do, philosophically, accept the idea that there should be a separation of power at all governmental levels. I think when you have a separation of power ~~XXXXXXXXXXXXXXXXXXXX~~, you also have debate on issues in local government. This is good. You get various viewpoints. The public becomes aware of these things. There is a public forum involved when you have a separation of power. I believe in this 100%. As long as we have this split executive in county government, where you have certain powers vested in these executives, then I think they have the right and the responsibility of leadership in these areas.

Mr. Stephenson: I grant that I agree with you in this concept where you as Sheriff are responsible to the voters. On the other hand, I think we should conceive of a concept where you have separation of powers and you have an administrative officer. Then you have a more businesslike structure, so to speak. Then these people would channel through the administrative end of the county.

A. Right, I think if we can visualize something like on the federal system, where we have cabinet officers coming to appear before the congressional committee, which is the legislative branch. That man is there and speaking for the President of the United States. Now, if we did have an appointed Sheriff and there was an executive officer who was not the Sheriff above him, then that Sheriff would never appear anywhere unless it was cleared with the executive officer as that man is now charged by the voters to provide leadership.

Mr. Swan: In your introductory remarks and also in the final paragraph of your prepared material you mentioned that we might determine a method whereby the services of process and related types of problems could be better handled. Did you have in mind the consideration by our committee of a court administrator type of thing?

A. I haven't any particular feelings on that. I think it depends on which way the committee goes. Which point of view they take on home rule and on reorganization. If there is a general reorganization in county government, or say there was hardly any reorganization and you retain the Sheriff and retain the Constable. Even that way you could probably combine functions somewhere along the line. If you went to a system whereby you have the Board of County Commissioners elected and a Sheriff elected, I would think that probably the Sheriff would assume the job load of process serving for the county in general. If you go to a system where you void all elected officials other than a strong Board of County Commissioners, then I could visualize some of the functions of the circuit court and the district court, the Sheriff, and the Constable in the civil areas being combined under some new, call it anything but for want of a better name, court administrator. Then I can visualize that. That is up to which way you go as a commission, which way they fall.

Mr. Swan: You don't personally have a recommendation then?

A. Yes, my personal thinking is that there should be some kind of separation maintained in county government between the executive officer and the legislative officer and, of course, the state courts provide the judicial system. The county is an arm of state government and so the state courts are our judicial branch and we do currently have an executive branch, although it is kind of gray in the commissary because they have both legislative and in certain areas executive. As you can see, there are a number of departments of county government under their direct supervision as far as the administration end goes. I think there should be a separation. I think there should be a legislative branch that takes care of fiscal matters and legislation of county ordinances. We have 11 matters of criminal law going before the legislature. Those 11 matters could probably be taken care of in Multnomah County by county ordinance. I believe strongly that they will have something to do (particularly Multnomah County) in the legislative area. I can visualize if you went to one strong executive officer, elected by the people, (I do not think he should be appointed by the commission because then the commission still is in the administration business) he should be charged with all the responsibility of the executive branch of county government and the administration of county government, and then, the judicial branch taken care of by the state courts.

Mr. Stephenson: In a division such as you suggest the area of ordinance making, which is in the legislative end, is in volume somewhat minor in relation to the administrative end, is it not?

A. Basically, everytime they alter part of the basic plan of development of the county this is a matter that, if we were under an ordinance making system, would probably be an ordinance. These are ordinance type matters. Planning, zoning, etc. I think there is a need for a great deal of leadership in these areas. I think that the indiscriminate erection of billboards throughout the county is one area that needs a great deal of study by our legislative body. I think that the orderly development of zoning and parks, etc. needs a great deal of study and thought. I think there are lots of things to do for the legislative. Things they don't have time to do now. I think that probably the worse thing we are doing now is planning and it should be the thing we are doing the best. We should be thinking in terms of 50 years ahead in this county, right now. We are not. We are going along day by day.

One other comment I would like to make is that probably in the area of local government, we are going to have to have a very quick evolution or some kind of revolution in the near future because local government is not particularly good government. Our metropolitan problems are getting out of hand. Local government per se in general is not very well functioning.

Mr. Stephenson: Well, you don't mean to say that it can't be made that way?

A. No, I don't, at all. I think that traditionally that is what people are upset about, i.e. the federal government coming in and taking over more responsibilities. Well, as far as I am concerned, they were filling a power void. The local government was not taking care of the function. I see now that it is beginning that the federal is taking less of the overall tax dollar and the local government is taking more. This is, to some people's minds and mine included, a good sign that local government is beginning to accept some responsibilities that they were shirking before. We have a metropolitan police problem. There should be some kind of metropolitan approach to the police problem. There are some encouraging things happening around the country. We are seeing the Sheriff become a sort of catalyst for police functions throughout his area whether they are contractual things or whether it is just a general police service for a given area. There is some strong talk in the Los Angeles area of the Sheriff becoming, eventually, the officer that runs the entire Los Angeles police department. So there is thinking along these lines currently.

Mr. Stephenson: That brings you right into the question of consolidation of city and county. How do you feel about that?

A. I think this commission has quite an opportunity to make a real contribution in the area of local government. No matter what you do, however, not everybody is going to agree with you.

Mrs. Elliott: Do you feel that the assignment that is yours to make civil service is honourous? Do you feel that it could be done otherwise and you could devote your talent and the capabilities you have in your department to more affirmative things?

A. I think it is honourous. It is something that traditionally the Sheriff has done and it is one of my responsibilities and, certainly, one that I am interested in. I have no recommendation that it be given to someone else in the event that there is still a Sheriff. I can see that in the event that there was not, or that some of these other things developed, then it might be shifted. But the Sheriff has traditionally done this. As far as being a good administrator, the President of the United States, for example, has numerous different functions he is responsible for executing. An administrator has responsible people to take care of those functions and report to him, and that person makes broad policy decisions. Now in the civil department I wouldn't know how to go out and take care of a writ of execution at all. I do not feel it is important that I know this. But, I certainly have people that I feel are thoroughly aware of how to do this and I have every confidence that they know how to take care of these things. I have advisors that tell me about these things.

A.(cont.) I can provide, or an executive officer can provide, the policy making decisions and the decisions about the competency of these people. I think these are the administrative tasks and chores. Now if I had a situation where we had a lot of the other functions that didn't have some unity of command, then I couldn't do this. But, I have three people reporting to me besides my executive office staff, and I hold those three people responsible for what happens in those areas. I do not think it is necessary that my burdens be cut down. There are burdens to any office, or you can sit there and do nothing. A person who is conscientious and tries to do his job will find burdens regardless of what he is doing.

Mr. McCallum: You have advised us that you are required to perform duties for the Supreme Court, the Circuit court, and the County court with no mention made in the statutes of the District Court. Do you upon occasion perform duties for the District Court?

A. Oh, yes, most assuredly.

Mr. McCallum: Do you serve process?

A. Yes, we serve process. We serve warrants. We guard prisoners in their courts. We do numerous things of this nature.

Mr. McCallum: You perform then, in effect, the same duties that the Constable does?

A. Yes. We have different fees, as I mentioned before, and we have countywide jurisdiction, whereas, the Constable is limited to 162nd Street.

Mr. McCallum: You are not refuted by law, to your knowledge, to performing any of the duties that the Constable performs?

A. Absolutely not.

Mr. McCallum: I understand that you believe that by electing you as Sheriff, you believe, that the people expect you as Sheriff to, in situations where in your judgment the law requires changes be made, lobby?

A. Lobby has bad connotations, buying the drinks, etc. But, to appear before committees and tell them what I think? Yes, I think that is a responsibility.

Mr. McCallum: To make affirmative requests for changes in the law?

A. Right. Where I see that there is something necessary to be changed. As I say, we have 11 in the criminal statutes alone requesting changes. One of these has regard to the way in which mental patients are handled, emergency mental cases, etc. We deal with it. We know there is a problem. Now, if somebody does not initiate something, our problem is not going to get taken care of. So, I think it is up to me to inform the legislature that there is a problem here and to make a recommendation as to what I think would rectify the problem. Then, they, as a legislative branch of government, could make a decision. They can tell me there isn't any problem, as far as they see, and I am not going to get any help. Or, if they do think there is a problem, they will make attempts to remedy it. The executive officer of federal government, of course, appears before congress all the time and tells them what he thinks should be done towards things to help him implement his programs, etc.

Mr. McCallum: You mentioned the fact that the County Commissioners office is independent of the functions of the Sheriff's office, and that the only power they have over the Sheriff is the power of the "purse strings".

A. Generally speaking, yes. There are certain other peculiar areas. When someone makes a mistake in the payment of tax and they pay too much money, there is one particular area where we do not give it back automatically. They have to go before the Board of County Commissioners and have the Board hear them. Then, on the Board's order, we give them their money back. But, generally speaking, it is true that the office of the Sheriff is an office elected by the people of Multnomah County, and only in general fiscal areas does the Board take care of things. They take care of the fiscal matters for the Sheriff. They probate his money and tell him where he can spend it once it is probated. Which is another kind of peculiar thing in county government.

Mr. McCallum: If they are not in a position to order you to perform duties, do they, as a matter of fact, request you to perform duties? Either as a board or individually?

A. Oh, yes, surely. From time to time they have a problem to do with the parks, etc. "Can you give us something over here? We are having some problem, vandalism, etc." These are general police functions, though. Just like having a citizen ask. We perform the duty as set out in Oregon law. The general implied duties of a peace officer are to preserve the life and protect the property of the people of the community and preserve the public peace, protect individual rights. But, these are general things. These are implied things.

Mr. McCallum: Well, because of this separate authority, are there ever any occasions when they may ask you to do something that you would refuse to do? Or, do they ask you to do things you feel you should not do?

A. Are you speaking of areas where they would ask that I don't police it so much? (laughter. Mr. Clark adds: I had no connotation involved at all.)

Q. (from audience) Where would the request come from to police the County Fair?

A. It would come from the Board of County Commissioners. But, most of those people that work out there, other than traffic control on the outside and a limited number of people that I would assign to any major function, are paid for out of separate funds. Those people are moonlighters out there, paid for by the County Fair Fund. But, still under authorized policy, they are responsible to the ship commander at that time and are still under our authority. They get paid out of a separate fund. We couldn't assign them out their on duty, because it would seriously cramp the rest of our police program. Naturally, any reasonable request from the Board of County Commissioners most of the elected officials in county government would comply with. It is a matter of practical government that you do things that people ask you to do.

Mr. McCallum: So the Commissioners don't ask you to do things you would have to refuse? Or, have you had occasion where you have had to?

A. Don (referring to Mr. Rocks) can you think of anything like that?

Mr. Rocks: I can't think of any actual situations. There may be times where your answer to a problem they put in front of you is a little different in terms of dealing with it than they would expect or recommend. But, this is your area of latitude, based on the number of people, where you put them, etc. I can't think of any specific situations.

Mr. Clark: They refer matters involving the duties of Sheriff to the Sheriff. I can think of a thing that came up one time that might fit into this category. It is so minor that I am not even sure you would want to hear about it. It deals with the "found" bicycles. This is one thing we are asking the legislature to change. How found property is taken care of. It is a mess legally and there is really no process set up to tell what to do with it. The Board of County Commissioners wanted, instead of selling it at sale or giving it to the Sunshine Division, etc.; to have these bicycles rebuilt, repainted by the Sheriff's inmates at the correctional institution and then the Board of County Commissioners would give them to the Juvenile Home, which is under the administration of the Board of County Commissioners, who then would give them to kids that come before the attention of juvenile authorities who need a bicycle for a paper route and don't have one. Now this made a change in our policy. We weren't sure that legally it could be done. We went before the District Attorney and he said that generally, probably it could be done. So, now we do it that way. This was a request. We don't have to do it that way, but we do. There is another area of conflict. The Multnomah County Correctional Institution is one of the institutions under the jurisdiction of the Sheriff. This is the jail and the county farm. Traditionally, where they have county farm situations and rehabilitation, the Sheriff has been responsible for both the jail and the administration of the farm. They took the farm budget and put it under my budget. Then, we had some discussion, and at the time it appeared that I was going to have the responsibility for the farm but, was not going to have the authority of the farm. I wasn't going to decide what was to be planted, etc. It was agreed by mutual consent that, either I had the responsibility of the farm and the authority, or I had the institution and they had the farm. That is the way it worked out. Now, we operate on what we call the California Penal System of Honor Camp. We have an institution like the California Penal Honor Camp. Each day a foreman who belongs to the Board of County Commissioners comes up and checks out our prisoners. He takes them down and they work with him, milking cows, etc. At noon he checks them back into us. We feed them and send them back out. We take care of their security, welfare, medical attention, etc., but, they actually work for this other fellow. If the prisoner isn't working out well, we try to assign him to something else. Or, we might send him back to Rocky Butte. We make that decision.

Mr. McCallum: So, while this is an area of conflict, it is a matter you have resolved?

A. Yes. We have resolved it.

Mr. McCallum: And you are doing it in a manner satisfactory to you and the Board?

A. Yes.

Mr. Swan: Do you have any recommendation to make to the committee as far as making the Sheriff elective on a partisan basis?

A. This is again a matter of philosophy. I think the Sheriff should be a partisan, elected officer. Now, immediately, I have to turn around and say there is absolutely not one inch of room for any partisanship in the administration of the office of Sheriff. None whatsoever. And there isn't any as a practical thing. I think that as Sheriff I can deal in politics, but my people should be immune from politics either way. They shouldn't have to campaign. They shouldn't get pressure in any way. It shouldn't make any difference what party they are. As a matter of fact, I think that out of my chiefs and my deputy chiefs in the police department, the majority of them are the opposite party I am. There is no room for that in the administration. Now, why do I think it should be partisan? A number of reasons. (1) It acts as a training ground for government in local jobs. (2) I think that if a person runs for a political office and he runs on a partisan ticket, he has a built in organization to help him run for this office. It is also a screening device. The party has a tendency to screen because they get to know the people better. This in no way endorses any pre-primary endorsements, which I do not believe in. But, they do get to know these people. If a Sheriff were to run on a non-partisan ticket, he would have to have either people and organization or money. Now, he doesn't have people and organization because he doesn't have a party and where is he going to get the money unless he personally has it. And, I would assure you gentlemen, there are very few that are interested in putting money into a Sheriff's race that you would want to have put their money into a Sheriff's race. I know because I am still paying the bills. For those reasons it should be maintained as a partisan office, I think. I do not think there is anything dirty about the word "partisan" at all.

Mr. Swan: But, there is not a partisan philosophy as far as being Sheriff in your opinion?

A. No. I don't think there is room for partisanship.

Mr. Swan: Is there any area where you think changes should be made in requirements of a Sheriff?

A. This is one I haven't resolved in my own mind. It depends on where the office of Sheriff goes in the next few years. There are some people in the current police circles that think that a Sheriff ought to have certain qualifications, one being graduation from a college. Some even go further to say in certain areas in a liberal arts college. Others say he should have so many years in some kind of law enforcement function, etc. I have not resolved this yet in my own mind. I can see in Crook County, Oregon where Sheriff Tex King is Sheriff, it would be of great advantage to have had some background in law enforcement because he goes out and captures these desperados at gunpoint and brings them back himself. He collects taxes himself, etc. He finally has just one part-time deputy in just the last budget. I can see it more in that area than I can in a metropolitan area where the function is basically administrative. Although I did think it was of particular value to me to have had experience in law enforcement because there was a reorganization of a police function involved at that time that I was familiar with. I think there was advantage there. But, generally, in the administration end I am not necessarily convinced you need any law enforcement to function as a Sheriff in a large department. I can even visualize where it could have some bad effects. It might be a negative thing. I think you get into some general philosophy, again, of government separation, so to speak, of the military and the civilian.

Mr. McCallum: You indicated that in your opinion local government per se is in a deplorable state. What is your standpoint?

A. I wouldn't say it is that bad, but, it is certainly not that good either. I think there is a lot of room for improvement in streamlining it. A lot should be done to streamline and strengthen local government. I think there needs to be a real awakening of the idea type of people we need serving in local government in the policy making positions. I think we are not making those decisions that need to be made. And they need to be made at the local level. I think a good example of a misconstructured government, again, (this one is too) is the city government, where you have the basic municipal commission type of government.

Mr. McCallum: This is the City of Portland you are talking about?

A. That is right. I think really that over the next few years we are going to have to make some real decisions in the entire area of local government. How many little local governments we should have. Don't get me wrong. I am not opposed to local government. I believe in local government. I believe in strong local government. I believe in local government that takes care of local problems. And I don't think we necessarily are now. I don't like to see a situation where decisions are made now that might affect things for 50 years. I can think of a number of them being made right now in the area of planning, in the area of what kind of computers people should buy.

Mr. McCallum: They are not being properly made in your opinion?

A. I think we are making decisions in the various local governments that are not compatible to each other and are not in the best interests of some kind of government we are going to have in the next 50 years.

Mr. McCallum: In speaking about local government now, you are not talking about government per se. You are speaking of the City of Portland?

A. And the County of Multnomah, and the 212 (or whatever it is) separate taxing districts in Multnomah County.

Mr. Swan: You would recommend a broad charter then?

M. Yes. I certainly would. I can see where county government should take over the responsibilities of lots of these things that the 212 taxing districts are doing. I do not think that multiplicity of government necessarily means good government. In fact, quite often, I think it means bad government. I think it means that certain areas that need services are not getting them because they are not necessarily in a position to supply them. And some of these areas need them most. They do reflect back on the entire community.

Mr. Stephenson: You would need some legislative action, would you not, to take in these fire districts and lighting districts, etc.?

A. I am not that much of a scholar on the law as to what your powers are. However, I think under home rule there is a lot of latitude. I don't know.

Mr. Krieg: You have been speaking of the city and county governments. Are you in favor then of these being combined for certain functions?

A. I have not worked out any practical master plan that is going to provide Utopia at the local government level. Generally, philosophically, and off the top of my head, I would think there could be a combination unified here into some kind of general government throughout the county providing general services. Then, if there was a specific need in certain areas that could not be handled this way, it would be handled similar to the borough situation, where there is still the master government. There might be a master government, eventually, on a borough system that handles things and you still, under the borough system or district system, can have certain local needs taken care of if they are not matters of general concern. You would have a situation of general concern, theoretically, if you had a dike that would a large area and the people living in this area didn't want to do anything about it. Then you could go ahead and do it. It would be of general concern.

Mrs. Elliott: Do you ever have a head-on collision with the City Police in the area of keeping the peace?

A. No. We don't have. If we did, there would be no question at all of which way it would go because the statutes are clear that the Sheriff is the supreme law enforcement officer in the county. We work in cooperation and it is very high right now. It has been under Chief Johnson. We have a mutual police problem. I think that the professional people involved and the administrators of the police agencies are more interested in seeing a mutual response than are the policy makers in areas of contractual agreement. I think you will remember a few years back there was a head-on collision where the Sheriff had to go into the city and it created quite a full there for months. The Sheriff does have the right and the authority to go in any place within the county and enforce any laws.