

From: Keith Mosman  
To: Multnomah County Citizens Charter Review Committee  
Date: June 6, 2016  
Re: Possible Changes to the Charter Regarding the Sheriff

## **Arguments Presented to the CRC on the Status of the Multnomah County Sheriff**

The following memo is a summation of the rationales presented to the CRC by opponents of removing the elected office of sheriff, arguments made by proponents of a ballot initiative to make the sheriff an appointed position, and the memo concludes with a brief overview of other alterations to the sheriff's position that have been considered but never proposed to voters.

### **I. Arguments for Retaining an Elected Sheriff**

Three main arguments have been presented by opponents of removing the elected office of sheriff: democratic principle, divided government and cultural affinity.

#### **a. Democratic Principle**

The first argument is that the vast majority of American counties--including every county in Oregon--elect their sheriffs. This has been true since the earliest days of the republic. Opponents assert that changing the sheriff to an appointed position would be undemocratic. If the 2016 electorate opts to make the sheriff appointed, it will foreclose future electorates from directly choosing their sheriff (at least until the matter is considered by future CRCs).

#### **b. Divided Government**

The second argument concerns the sheriff's autonomy and the very structure of the county's government. Opponents fear that an appointed sheriff will lose the independence of an elected official. This could remove the Sheriff's Office as a separate source of policy and a separate point of contact for concerned citizens. An elected sheriff can openly disagree with commissioners and, if needed, investigate allegations of wrongdoing without fear of reprisal.

Additionally, an appointed sheriff that serves at the Commission's pleasure would be more likely to manage for the short-term. Instead of being assured of a four-year timeframe to implement policy, an appointed sheriff cannot know how long they will serve.

Opponents further argue that losing the independently elected sheriff will shift power to the County Commission and that this concentration of power is contrary to American values.

#### **c. Cultural Affinity**

Opponents have indicated that many residents of the areas patrolled by the sheriff's office--unincorporated portions of the county and contract cities--feel a closer connection to the sheriff than to the commission. These residents might feel that the removal of the elected sheriff

is an example of a service more focused on their community being taken away by the urban residents of the county.

If an appointed sheriff is hired after a national search, he or she would likely be less in tune with the existing culture of the sheriff's office and the county at large.

## **II. Arguments for returning to an appointed sheriff**

Proponents of a ballot initiative to make the sheriff an appointed position offered three primary arguments: accountability, the limitations on elections for sheriff, and the lack of coordination with the Commission.

### **a. Accountability**

Proponents argue that the current system does not provide adequate accountability for a chief law enforcement officer. The recent history of the MCSO has demonstrated that when public concerns about the sheriff's fitness for office arise, the public's options are to initiate a costly recall campaign or to endure a months-long process of scandal that is heavily covered by the media and damaging to the public image of the MCSO.

### **b. Limitations on Elections**

Potential candidates for Sheriff must be Multnomah County residents who meet the State's qualifications laid out in ORS 260.015, including law enforcement experience and licensing with the State. This necessarily creates a limited pool of possible sheriffs. Further limiting the pool, as D.A. Underhill testified in relation to the D.A.'s office, is the fact candidates usually come from the MCSO and the outgoing Sheriff and/or the office staff will likely select a candidate before anyone files for office. Additionally, the three unions representing MCSO employees are special interests with great influence on elections for sheriff. Thus, voters' options are severely limited well before they ever cast a ballot. Most recent elections for sheriff have not been competitive.

A related problem is that the sheriff provides law enforcement to only certain areas of the County, but the entire County votes for sheriff. The result is that the same residents who are most served by the sheriff have a diluted voice in selecting him or her.

A related and more fundamental criticism of the current system was made in an Oregonian editorial from 1982, and provided to the CRC, which stated that a law enforcement professional should be hired for "professional qualifications instead of political ambitions."

### **c. Lack of Coordination with the Commission**

The third argument offered by proponents is very similar to an argument offered by opponents: that the current system results in a lack of coordination on criminal justice policy between MCSO and the County Commission.

Proponents view this as a frustrating waste of time, tax money and opportunity as criminal justice reform is a national priority and the County's ability to implement new policies is hamstrung. Opponents portray this situation as a virtue: divided government as the founders intended.

### **III. Alternative changes to Sheriff's Office that have previously been considered**

#### **a. Removing the residency requirement**

The previous CRC considered relaxing or removing the residency requirement for sheriff. There is some precedent for this: Benton County requires sheriffs to have been Oregon residents for one year prior to election, but they do not need to be county residents until the day they take office. Sheriff Stanton indicated that in his view, only residents of nearby counties should be eligible, as those living further away would not adequately understand the unique culture of Multnomah County.

#### **b. Removing jail administration from the elected sheriff's office**

Reportedly, Ted Wheeler, then County Chair, considered an amendment to the Charter that would remove jail administration from MCSO. In a review of all the other Home Rule counties, this situation would be unique (with the possible exception of Hood River County, which shares jail administration with three other counties as part of the NORCOR partnership).

In theory, this option would satisfy nearly all of the objections raised by the opponents of an appointed sheriff. However, it would be a novel solution with possible unforeseen consequences that the CRC has little time to fully consider. There are also some legal questions, based on my reading of ORS 260. Additionally, this option would remove 80% of the sheriff's responsibilities and dramatically alter the MCSO.