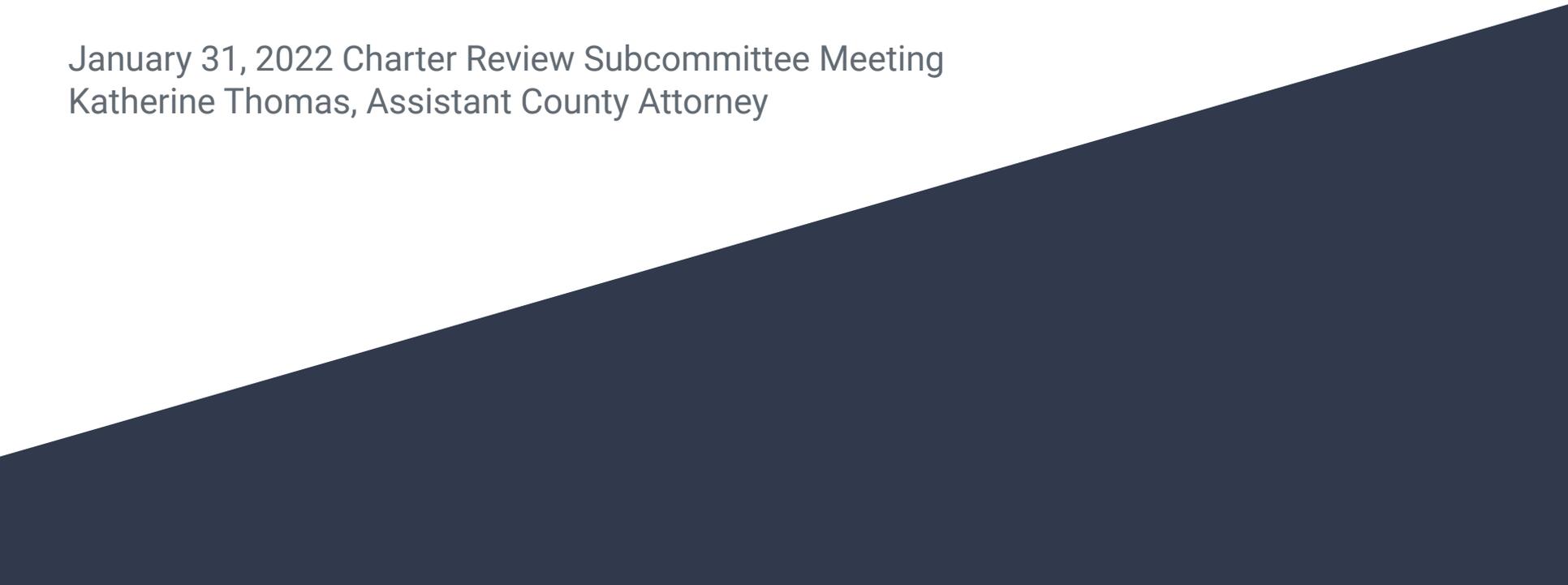


Legal Authorities Relating to the District Attorney and Sheriff

January 31, 2022 Charter Review Subcommittee Meeting
Katherine Thomas, Assistant County Attorney

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Overview

❖ **Key Points**

- Substantive
- Procedural

❖ **District Attorney**

- Multnomah County Charter
- Oregon Constitution
- Oregon Revised Statutes

❖ **Sheriff**

- Multnomah County Charter
- Oregon Constitution
- Oregon Revised Statutes

Key Points – Substantive

- ❖ Both offices perform some **state functions**, meaning functions in which the state has an interest and that are provided for in state law
- ❖ State law **may limit** what can be changed via Charter amendment
- ❖ **Specific proposals** will require legal analysis



Key Points – Procedural



PROCEDURAL

- ❖ Engage in fact finding
- ❖ Determine the problem to solve or the policy objective
- ❖ Identifying the underlying issue or policy helps to identify legislative options
- ❖ Staff can help identify when to bring a proposal for legal review

District Attorney

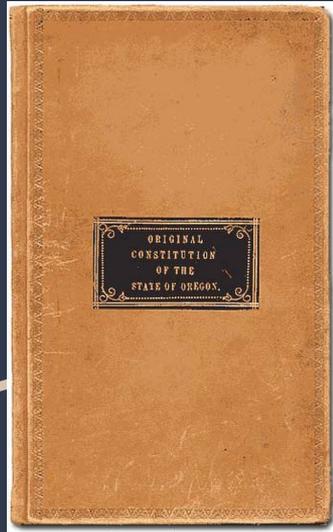


Multnomah County Charter

Section 4.30 Excerpt: “The salary commission shall set the salaries for the chair of the board of county commissioners, county commissioners, sheriff and *the county paid supplemental salary of the district attorney*, documenting the basis of its decisions. “

- ❖ The District Attorney is referenced **only once** in the existing Multnomah County Charter.
- ❖ Section 4.30 provides that the **county paid supplemental salary** of the district attorney is **set by the county salary commission**.
- ❖ The District Attorney is **not a “County Officer”** subject to the remainder of Chapter 4 of the Charter

Oregon Constitution



- ❖ County Home Rule Amendment (Article VI, section 10):
“Except as expressly provided by general law, a county charter **shall not affect the selection, tenure, compensation, powers or duties** prescribed by law * * * for district attorneys.”
- ❖ Article VII (Amended), Section 5:
Discusses what the district attorney may charge and file in certain instances

Oregon Revised Statutes



- ❖ **Chapter 8**: Qualifications, method of selection, powers, and duties
 - DA conducts prosecutions on behalf of the state. ORS 8.660(1)
 - Can also prosecute local law violations
- ❖ **Many other** statutory provisions. For example:
 - ORS 192: Adjudicates public records disputes over fee waiver, disclosure
 - ORS 30: Authority to bring civil claim for certain bias crimes

Sheriff



Multnomah County Charter

Section 6.50: “The people of Multnomah County shall elect 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.”

- ❖ **Section 6.50** of the Charter establishes the position of Sheriff, the method of selecting the Sheriff, and the core duties of the office
- ❖ **The Sheriff is a “County Officer”** subject to Chapter 4 of the Charter
 - 4.10 Qualifications
 - 4.20 Terms of Office; Successive Terms; Running for Office in Midterm
 - 4.30 Compensation
 - 4.40 Vacancies - Causes
 - 4.50 Vacancies - Filling

Oregon Constitution

- ❖ County Home Rule Amendment
 - Does not specifically address the Sheriff
 - States that the Charter shall provide “**for the number, election or appointment, qualifications, tenure, compensation, powers and duties** of such officers as the county deems necessary.”
 - Supersedes Article VI, section 6, which required an elected sheriff

- ❖ Article VI, section 8:

“Every county officer **shall be an elector of the county**, and the * * * county sheriff* * * shall possess **such other qualifications as may be prescribed by law**. All county and city officers shall keep their respective offices at such places therein, and **perform such duties, as may be prescribed by law.**”

Oregon Revised Statutes

- ❖ **Chapter 206**: Duties and qualifications of Sheriff
- ❖ **Many other** statutory provisions. For example:
 - ORS 18: Sheriff charged with carrying out certain court orders
 - ORS 169: Sheriff has duties and liabilities relating to people in local county correctional facilities



DISCUSSION