

CITIZENS LEAGUE REPORT

No. 171

**Courtroom Bailiffs: Consolidation of  
Duties for District & Municipal  
Courtrooms**

**December 1964**

Citizens League  
545 Mobil Oil Building  
Minneapolis, Minnesota 55402

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APPROVED  
BOARD OF DIRECTORS  
DATE DEC 2 1964

TO: Board of Directors

FROM: County Court Review Committee, James L. Hetland, Jr., Chairman, Peter Anson, State Senator Jerome Blatz, Mrs. Ralph Bruce, Charles Clay, State Senator Jack Davies, Richard Fitzgerald, State Representative William Frenzel, State Representative Edward J. Gearty, David Graven, Bernard Heinzen, Robert Holtze, C. Paul Jones, Raeder Larson, C. D. Mahoney, Jr., Clay R. Moore, Philip Neville, State Senator Harmon T. Ogdahl, State Senator Wayne Popham, Norman E. Stewart, Lynn Truesdell III, Paul Van Valkenberg, State Representative John Yngve, and William Lahr.

SUBJECT: COURTROOM BAILIFFS

Because the committee vigorously takes issue with plans being finalized this month for the hiring by the Sheriff of Hennepin County of 16 new permanent courtroom bailiffs to service the new County Municipal Court, the committee has determined to submit the following Findings and Recommendations at this time to be followed at an early date with a full report on the committee's Findings and Recommendations on other courtroom functions besides that of bailiff.

The committee believes that the commencement of the new County Court offers an opportune time for an intensive and overdue study by the District and the County Municipal Court Judges, the County Board, the Clerks of Court and the Sheriff of the function and utilization of in court courtroom personnel. Changes in or consolidation of the functions performed by bailiffs and deputy clerks of court in the courtroom can give rise to more efficient and effective administration of justice.

Recommendations

1. We urge the Judges of District Court and County Municipal Court, the County Board and the Sheriff of Hennepin County to cooperate in implementing a "bailiff pooling" arrangement under which courtroom bailiffs, rather than being assigned one to a courtroom, should be placed in a common pool or pools and be utilized in District and Municipal courtrooms in which civil or eminent domain matters are being heard. Use of bailiffs should be at the Judge's discretion.

Bailiffs could perform the following functions:

- a. Opening and closing court.
- b. Escorting jury panels to and from courtrooms.
- c. Escorting and guarding juries during their deliberations and until the rendering of verdict.
- d. Keeping order in the court in the event unusual conditions or disturbances in the opinion of the Judge requires the presence of a bailiff.

This pooling arrangement should apply to downtown Minneapolis court and hearing rooms, but not to suburban courtrooms.

2. The committee believes that the Judges, in cooperation with the Sheriff and other officials, already possess the authority to effect the changes recommended above. However, to the extent legislation to carry out the recommended plan might be deemed necessary by the Judges, the Sheriff or the County Board to clarify their respective responsibilities under the proposed plan, we urge the Legislature early in the 1965 session to enact such legislation.

3. The committee believes that, through implementation of Recommendation 1 reducing the functions of courtroom bailiffs, and through continued study of the bailiff's function, that the Judges, the County Board and the Sheriff may conclude that a sufficient number of bailiffs are now in the County's employ to adequately handle the bailiff's necessary functions. For this reason the committee recommends that no new permanent deputies be hired at this time to act as courtroom bailiffs.

4. If additional deputies are needed while the matter of in courtroom personnel functions is under study, the committee recommends that the County Board, the Sheriff and the Judges of the new County Court arrange for the retention on a temporary basis of persons now serving as court officers in the Municipal Court to act as courtroom bailiffs in the County Municipal Court commencing January 1, 1965.

#### Findings

1. Commencing January 1, 1965 under present plans there will be at least 35-40 deputy sheriffs serving full time as bailiffs in downtown Minneapolis court or hearing rooms, in addition to at least 5 serving in suburban County Municipal Court locations.

2. All Judges or officials concerned with courtroom operations, including representatives from the Sheriff's office, have endorsed a pooling arrangement for courtroom bailiffs under which, contrary to the current arrangement in the District Court in which a bailiff is automatically assigned to each court or hearing room, bailiffs would be placed in a common pool or pools so that a small number of bailiffs, on call from the Judges, could serve a large number of District and Municipal downtown courtrooms in which civil and eminent domain matters are being tried.

3. Bailiffs are not needed full time in courtrooms in which civil (jury and non-jury) and eminent domain matters are being heard.

Considering both courts, as many as 20 of the approximately 30 downtown court or hearing rooms which will be active on any given day will be occupied with civil and eminent domain matters. Other courtrooms will be so occupied part of the day.

Bailiffs are needed full time in court while court is in session in connection with the following functions of the courts:

Municipal: Traffic court, criminal court, criminal jury trials, traffic jury trials (at the discretion of the Judge).

District: Criminal court, criminal jury trials, family court, juvenile court, family and juvenile referee hearings (at the discretion of the Referee).

These functions occupy about 10 downtown courtrooms on an average court day.

4. The County Board on November 17 approved a \$361,016 budget for 1965 for Sheriff's services to the new court. This approved budget provides for 37 new employees for the Sheriff, 16 of whom would be deputies to serve as permanent new courtroom bailiffs.

5. It is not necessary or desirable that the Sheriff at this time hire permanent new personnel to serve as courtroom bailiffs for the new County Court. Pending implementation of a "bailiff pooling" arrangement by the Sheriff, the County Board and the Judges of both courts, and/or the Legislature, arrangements could be made on a temporary basis for the retention of persons now serving as court officers in the Municipal Court to act as courtroom bailiffs in the new County Court. These temporary arrangements could be accomplished through contracting for these officers' services or by alternative means.

1965 PERSONNEL, DISTRICT AND MUNICIPAL COURTS,  
SERVING FULL TIME IN COURTROOMS  
(From 1965 Budgets and other information presented  
to the committee)

Courtroom Bailiffs  
(Salary \$505-573 per month, Sheriff's scale)

County Municipal Court (14 judges, 14 court reporters, 14 deputy clerks)

The budget authorized by the County Board November 17, 1964 provides for 16 bailiff positions. Two additional bailiffs could be hired from a contingency fund .....16-18

District Court (16 judges, 5 retired judges, 5 referees, visiting judges, 17 court reportes, at least 25 courtroom clerks)

In the 1965 budget for positions and salaries approved by the 1963 Legislature there are a total of 94 positions in the Sheriff's department plus 12 for his radio operation and 15 for the County Jail, 12 of whom are "General Deputies". Of the 94, 64 are "General Deputies". Of these 64, approximately 12 now serve civil process (criminal and traffic warrants are served by another division) and about 24 are in the Traffic Division. Twenty-five to 30 of the 64 are courtroom bailiffs. All Judges and Referees are served full time by bailiffs.....25-30

TOTAL Bailiffs full time in courts .....41-48

### Discussion

The committee has held 7 meetings to date. It has heard from the following Judges and officials: District Court Judge Theodore Knudson, District Court Judge Luther Sletten, District Court Chief Judge John Weeks, Municipal Court Chief Judge Elmer Anderson, Municipal Court Judge Edward Parker, Sheriff Ed Ryan, Inspector Eugene Arnold, Clerk of District Court Philip Schmidt, Deputy Clerk of District Court Del Smith, Clerk of Municipal Court Arthur Anderson, County Purchasing Agent and Budget Director Stanley Cowle, County Budget Examiner Roger Newstrum.

Under the law establishing the new County Court the Sheriff is charged with providing the court with courtroom bailiffs at the direction of the Judges. Because the 1963 legislation made no provisions for additional Sheriff's personnel to service the new court, it became the duty of the County Board to provide funds for additional Sheriff's personnel to service the court commencing January 1, 1965.

Normally, the County Board has nothing to do with the determination of how many personnel the Sheriff, an independent elected official responsible to the Legislature, might need to carry on his operations. The Board's traditional function with respect to the operations of the independent elected officials is merely to levy the taxes necessary to provide for the number of personnel and salary levels set by the Legislature, and, within these guidelines, to approve operating and capital budgets of the independent elected officials.

In this instance, therefore, the County Board's discretion with respect to the staffing of the Sheriff's office to provide services to the court is a "one-shot deal" and ceases in January, 1965 with the convening of the new Legislature

The Sheriff on September 2, 1964 submitted his personnel requirements to the County Board. He asked for 87 new personnel (estimated to cost \$667,864) including 26 courtroom bailiffs for the new County Court. Considerable differences arose between the Sheriff and the County Board Budget and Purchasing Department particularly in regard to the Sheriff's request for personnel for service of process of the court. These differences have not been resolved, despite the County Board's action on November 17 providing for a Sheriff's budget to service the new court of \$361,016.

This approved budget called for 37 new Sheriff's employees, 16 of whom would serve as permanent new courtroom bailiffs.

### Sixteen New Bailiffs?

It has been the position of virtually every Judge or official to appear before our committee, including representatives from the Sheriff's office, that courtroom bailiffs or "peace keepers" are not needed full time in a majority of the courtrooms in Hennepin County - those courtrooms in which civil and eminent domain matters are being heard, either by Judge alone, or, as is more often the case, but by a Judge and jury.

In fact, in these courtrooms, as opposed to courtrooms in which criminal, traffic, juvenile or domestic relations matters are being heard, the only substantial duty performed by the bailiff is the escorting and guarding of juries once they retire to render their verdict. Law suits often go on for two days, four days, a week, or even longer before the "case goes to the jury".

"Maintaining order in the court" is the traditional function of the bailiff. As a practical matter, however, bailiffs are not needed in connection with trial of civil and eminent domain (condemnation) cases except to escort and guard the jury. For this purpose or to bring the prospective jurors to the courtroom at the beginning of a trial, bailiffs in a pool could be summoned by the Judge or clerk by means of a phone or buzzer system.

The bailiff pool could also be on quick call for those exceedingly rare occasions when special circumstances or disorder might necessitate calling an officer .

In the District Court now the practice is to automatically assign a bailiff to every courtroom when a Judge or Referee is hearing any matter at all.

In the Municipal Court there is a relatively greater need for bailiffs because of the large volume of criminal and traffic matters heard, not only in Minneapolis, but commencing in January, at suburban locations as well.

In the Minneapolis Municipal Court there has been a modified pooling arrangement under which courtrooms engaged in some civil matters and the Conciliation Court sends bailiffs to traffic and criminal court where the Judges say two or three men are needed in each courtroom because of the volume of business in these courts, the requirement of accompanying persons to and from the jail, etc.. In this connection it should be borne in mind that several Sheriff's deputies are assigned full time around the clock to the County Jail and are available to aid in the transport of prisoners.

In a criminal jury trial a bailiff is needed full time to guard the defendant, even though the defendant is in the hands of his lawyer. It is questionable whether a defendant represented by counsel in a traffic matter being tried to a jury needs a full time guard, however, this decision could well be left to the discretion of the Judge. In family (domestic relations) and juvenile court matters bailiffs are needed in some instances to guard defendants or litigants and often to keep the idly curious out of the court or hearing rooms.

At a time when the costs of maintaining the courts and related services are increasing sharply, the public has a right to expect those concerned with the administration of justice to make any possible economies which will not impair the efficient operations of the courts.

A representative of the Sheriff's office has told us that one bailiff in a pool could easily handle 3 or 4 courtrooms engaged with civil litigation. The law governing operations of both the District and the new County Court states that the Judges in each case shall determine the number of bailiffs and other Sheriff's personnel required to service the courts. What then is preventing the implementation of a bailiff pooling arrangement?

It is the position of the Sheriff that by law he is responsible for keeping order in the courts and that, until the law is changed, he cannot either leave courtrooms untended or delegate his legal duties to others. He has stated this in connection with a proposal of the Municipal Judges that the courts officer personnel, Minneapolis police officers, currently serving as Municipal Court bailiffs be hired under contract with the County to continue to provide bailiff service at the startup of the new County Court. The County Attorney has issued a legal opinion contrary to the Sheriff on the contract question.

But, even if the Sheriff is correct, there are other means, including the hiring of the existing Municipal Courts bailiffs on a temporary basis in connection with their taking temporary leaves of absence from the Police Department, by which this matter could be worked out while the bailiff pooling arrangement, apparently agreed on in principle by everyone concerned, is worked out, if necessary with the help of the Legislature.

#### A New Factor

Another factor which impresses the committee and with which the committee will deal in its upcoming report on possible consolidation of courtroom functions is the apparent need expressed by all the Judges of both courts who have addressed us, for law clerks or aids to assist the Judges in legal research and in other matters. In several states with which the committee has been in contact it has been possible to hire clerks or aids to the Judges by reducing the number of other personnel, especially bailiffs, serving full time in courtrooms.