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THE SHERIFF'S OFFICE

OF

ELLIS COUNTY

KANSAS

BEING

A THESIS PRESENTED TO

THE DEPARTMENT OF HISTORY, POLITICAL SCIENCE AND SOCIOLOGY AND THE GRADUATE COUNCIL OF THE FORT HAYS KANSAS STATE COLLEGE

IN PARTIAL FULFILLMENT OF REQUIREMENTS

FOR THE DEGREE OF

MASTER OF SCIENCE

BY

Eugene A. McFarland

Approved for the department

Womoreland

Approved for the Graduate Council

Acting chairman for Graduate domncil Date May 19,1936

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Eugene A. McFarland

July 27, 1935

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AUTHOR'S PREFACE

This study has been made in the field of local government upon the suggestion of Dr. W. D. Moreland. It deals only with the sheriff's office in Ellis county, Kansas.

The statutes of Kansas and their application and function show that this office is primarily the same today as it was in England in the seventeenth century. A study of the sheriff's office relates that the powers and duties are similar in Ellis county to those in England when the sheriff was a servant of the King and his court.

Frequent changes have been made but the facts still remain that one of the main defects is due to the lack of responsibility, improper coordination, and the lack of integration between the state and the county. Also that some system of unified policing is necessary in view of changing conditions in the field of law enforcement and crime prevention.

In order to give one who is not familiar with Ellis county the right prospectus, a few facts are submitted here: Ellis county is peopled largely by German-Russians, who started migrating to this county in 1875. The Catholic religion is very common. Population has increased 32% from 1910 to 1935. From 1920 to 1930, the period from which most of the facts in this report were taken, population increased 12.8%, which would have some effect upon the increase of crime.

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Chapter I

HISTORY OF SHERIFF'S OFFICE

To give a better setting and a broader background for the discussion of our present day sheriff in Ellis County, it is necessary to give the origin and early history of this institution in England. In some features this English institution bears analogies to the Germanic system in the first century A. D. as described by the Roman historian, Tacitus, and there may be some indication that one developed from the other. But for this purpose it is sufficient to confine our attention to the later part of the Anglo-Saxon period, to the system of government existing at the time of the first settlement in America.

Anglo-Saxon Sheriff

The local affairs of the various Anglo-Saxon kingdoms were managed by an assembly of the inhabitants who elected the president known as the "tourn-reeve," a tithing man, constable, and four men who with the reeve and priest represented the township in the courts. The main function of the courts were judicial in character,

including both civil and criminal jurisdiction. In theory, justice was administered by the whole assembly and lawful attendants or suitors at the court; but in practice this function fell very largely to a committee of twelve. Twice a year the shire-reeve or sheriff held a "tourn" of the hundred court.

The initiative and active control of business rested in three officials; the earldorman or earl, the shire-reeve or sheriff, and the bishop. The sheriff originally had been the steward of the royal estates and chief executive of the shire court.

Then after the Norman conquest the earls retired from active administration of shire business, and the same time the separation of the civil and ecclesiastical jurisdiction led to the disappearance of the bishop from the shire court. These changes paved the way for the growth and supremacy of the sheriff in the county, as the shire came to be called. This officer became the King's representative in military affairs; as police magistrate he was responsible for maintaining peace and good behavior; as steward of the royal estates his financial powers were increased; and for a while his judicial functions gained importance with the decline of the hundred court. The jurisdiction of the shire court was extended, and its sessions increased from twice a year until they were held as often as

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once a month. This led to a falling off in attendance of the local representatives, and as a result the sheriff became the chief agent in a strongly centralized prefectorial administration.

Thus the arbitrary exercise of his enormous power made the sheriff an unpopular official, and at the same time the tendency for the office to become hereditary in powerful families caused it to be distrusted by the crown. As a result his power was gradually reduced by the development of the itinerant royal courts, and on the other hand the justice of peace.

By the seventeenth century the sheriff was again more important and was still an official of considerable power and much dignity, although the requirement of constant residence in the county reduced the scope of his power to a definite area. The sheriff in most cases was chosen by the crown, each from a list of three, and by law the same man could not be appointed for two successive years. The duties of the sheriff were many and varied. He presided at the session of the county court, summoned juries, executed the judgment of the court, had charge of the jail and acted as a local host to the representatives of the crown.

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Such were the local institutions with which the English colonies were familiar, and as was natural, most of these were introduced into the colonies. The development in American local government then is a continuous process from the English institutions of the first part of the seventeenth century.¹

Local Government in the American Colonies

Virginia followed the English system most closely. On the large scattered plantations which physical conditions made the economic unit in Virginia, many local matters were attended to by the owners, and before long the parish was overshadowed by the county as a district for local government and administration. The county became the unit of representation in the colonial assembly, and also the unit of military, judicial, high-way, and fiscal administration. It is here we find the office of the sheriff, who acted as a collector and treasurer. All were appointed by the governor of the colony on the recommendation of the justices. The same process took place in the other colonies only under different units. In Massachusetts where the town meeting was used as a unit of

1. Fairlie, J. A. and Kneier, C. M. County Government and Administration, p. 12.

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local government the office of sheriff did not show up until after 1654, when the first steps in the development of county were taken. The elective office of county treasurer was created in 1654 and that of the sheriff soon followed.²

After the Revolution

While for the most part, little change was made in state government after the revolution, some important reactions were brought about in county government. It may be said that there was a distinct tendency in most states towards decentralization or an increase of local influences in choosing county officials, to be exercised by direct election of the old appointive officials. Definite terms were given to offices and in New Jersey and Maryland the sheriff and coroner were made elective. The Northwest Territory was influenced by the institutions of other states during the territorial period, townships with elective officers were organized, but county officers were appointive. But the first state constitution (1816) provided for the election of sheriffs, coroners, clerks of

2. Fairlie, J. A. and Kneier, C. M. County Government and Administration, p. 16.

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courts, recorders, and justices.³ In the formation of the states that followed, that is, those that were admitted after 1800, there was a distinct tendency in the direction of extending the practice of local elections, notably for the old offices of sheriff and coroner.

As the nation expanded westward after the Revolution, the settlers from the older eastern states, moving, as a rule, along parallels of latitude, transplanted in the new states the system of local government with the majority in each case had been most familiar in the old homestead. Hence the county is the principal unit of local government in southern and south central states, while the combined county-township system predominates in the north central states. In Michigan, Illinois, Wisconsin, and Minnesota, whose early settlers came mainly from New York and New England, the township is the more important area. On the other hand, in states whose first white inhabitants came largely from the south, such as Ohio, Indiana, Kansas, and Nebraska, the county preponderates. Where the two lines of migration one from the old South and the other from the old North, meeting in a single state, have resulted in a compromise whereby a combination

3. Fairlie, J. A. and Kneier, C. M. County Government and Administration, p. 26.

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of the two types have been retained.4

West of the Mississippi both county and township government was established in Iowa, Minnesota and Kansas. In Kansas the earliest settlers formed their own local governing organizations. The first territorial legislature, in 1855, defined the bounds of thirty three counties and organized seventeen at once with officers appointed by the legislature.⁵ After the admission of the state in 1861, an elective county and township system was established. The county officers consisted of a board of three commissioners elected by districts, the sheriff, coroner, probate judge, county clerk, register of deeds and county attorney. Hence this leads us up to the introduction of the elected sheriff in Kansas and in Ellis county of Kansas.

Ogg, Frederic & Ray, P. Orman. Introduction to American Government, p. 716.
Fairlie, J. A. and Kneier, C. M. County Government and Administration, p. 30.

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Chapter II

LEGAL STATUS OF THE SHERIFF IN ELLIS COUNTY

Every county has a sheriff; he is the chief executive administrative officer of the county, representing the executive or administrative power of the state within his county.

The sheriff has been referred to as the highest purely executive officer in the county. The sheriff is also the chief executive officer of the state. Under all systems of government which have recognized the law as the supreme rule of action it has been found absolutely necessary to vest in some person the ultimate power to preserve the peace, quell disorder and suppress riots and this person is the sheriff.

The sheriff's office, like most agencies created by the government, has its limitations and jurisdictions as provided by law.

Elections

"A sheriff shall be elected in each organized county, for two years, and who shall, before he enters upon his duties of his office, execute to the state of Kansas a bond, with at least two or more sufficient sureties, in such penal sum, not less than two thousand dollars, nor more than twenty thousand dollars, as the board of county commissioners shall specify and approve, said board, when thus approved, to be filed with the county clerk of said county."⁶

Appointment of Undersheriff

"The sheriff of each county shall, as soon as may be after entering upon his duties of his office, appoint some proper person undersheriff of said county, who shall also be a general deputy, to hold during the pleasure of the sheriff; and as often as a vacancy shall occur in the office of such undersheriff, or become incapable of executing the same, another shall, in like manner, be appointed in his place."⁷

Vacancy in the Sheriff's Office

"Vacancy in the office of sheriff: whenever a vacancy occurs in the office of sheriff of any county the undersheriff of such county shall in all things execute the office of sheriff until a sheriff shall be appointed by the governor of the state, who shall hold office until his successor is elected and qualified, and

6. Kansas. Revised Statutes, 1923, Chap. 19, Art. 801. 7. ibid. Chap. 19, Art. 803.

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any default or misfeasance in office of such undersheriff in the meantime, as well as before the vacancy, shall be deemed to be a breach of the condition of the bond given by the sheriff who appointed him, and also a breach of the condition of the bond executed by such undersheriff to the sheriff by whom he was appointed."⁸

General Duties of the Sheriff

Charge and Custody of the Jail

"The sheriff shall have charge and custody of the jail of his county, and all the prisoners in the same, and shall keep such jail himself, or by his deputy or jailer, for whose acts he and his sureties shall be liable."⁹ <u>Process; Court Attendance; Fees</u>

"The sheriff, in person or by his undersheriff or deputy, shall serve and execute, according to law, all process, writs, precepts and orders issued or made by lawful authority and to him directed, and shall attend the several courts of record held in his county, and shall 10 receive such fees for his service as are allowed by law." Preservation of Peace

"It shall be the duty of the sheriff and under-

Kansas. Revised Statutes, 1923, Chap. 19, Art. 804.
 ibid. Chap. 19, Art. 811.
 ibid. Chap. 19, Art. 812.

44061

sheriff and deputies to keep and preserve the peace in their respective counties, and to quiet and suppress all affrays, riots and unlawful assemblies and insurrections, for which purpose, and for the service of process in civil or criminal cases and in apprehending or securing any person for felony or breach of the peace, they, and every coroner and constable, may call to their aid such person or persons of their county as they may deem necessary."¹¹

As a conservator of peace in his county, the sheriff is the representative of the sovereign power of the state. He may upon view, without writ, or process, commit all persons who break the peace or attempt to break it; he may award process of the peace or bind any one in recognizance, to keep it.¹²

> The Sheriff as a Peace Officer and his Legal Limitations

The legal nature and status of the American county has been established that the county is a governmental agency and administrative district of the state.¹³

 Kansas. Revised Statutes, 1923, Chap. 19, Art. 813.
 ibid. Chap. 19, Art. 805.
 Fairlie, J. A. and Kneier, C. M. County Government and Administration, p. 39.

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The supreme court of the United States has held that counties, being created by the authority of the legislature, derive all their powers from the source of their creation, except where the constitution of the state otherwise provides.¹⁴

The Supreme Court of Kansas has distinguished the powers of counties and municipal corporations and has held that counties are involuntary corporations, created for governmental purposes and having only such powers as the law prescribes or as arise by necessary implication.¹⁵

In Kansas it is plain to be seen that the office of sheriff was created by law and that he is in turn a servant of the state. But no where in our state statutes is found any reference to show to whom the sheriff in Ellis County is responsible. He is elected by popular vote, subject to the will of the voters, but to whom is he to be checked by to see that he is fulfilling his duties? In Anglo-Saxon times the sheriff was appointed by the king and held responsible to the king. If the sheriff

14. Fairlie, J. A. and Kneier, C. M. County Government and Administration, p. 39. 15. ibid. p. 39. could not and did not get the desired results, the King removed him and a more efficient man was appointed in his place. In Kansas we find the governor is vested with the supreme executive authority of the state and it is his duty to see that the laws are faithfully executed. However, a very large part of our ordinary law enforcement is in the hands of locally elected officers such as the sheriff of Ellis County, whom the governor can not control directly, although he may cause suit to be brought for his removal.

Under such circumstances it is clear that our present set-up makes it impossible to properly execute the laws. The Governor has only a limited power to supervise and direct, yet is responsible for the law enforcement in Kansas.

Police Problems Today

With the change in control of the sheriff from Anglo-Saxon England, where he was appointed by the King, to Ellis County, Kansas, where the sheriff is elected by the people and responsible to no one, it is plain to be seen that county machinery for law enforcement has not been satisfactory. The changing conditions of this cen-

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tury has made this become more evident. Lynching in western states under frontier conditions and of negroes in southern states have been due in part to unsatisfactory law enforcement agencies. The automobile and good roads have tended to accentuate this problem, as is shown by the increasing number of robberies in rural sections.

Some of the difficulties of the present situation arise from the lack of satisfactory organization of the sheriff's office. There are few qualifications required for sheriffs, and a survey of those who have held office in Ellis County shows they seldom have any special training or experience.¹⁶ The fee system operates to divert their interest from the active work of preventing crime and detecting and arresting criminals. In a survey of the work of the sheriff's office in Ellis County, it is readily seen, that the sheriff spends over half of his time in the service of the court. With the sheriff in Ellis County spending half of his time in the services of the courts, how could we expect the laws of our land to receive the proper attention?

16. See page 54, table X.

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Chapter III

THE SHERIFF AS A SERVANT OF THE COURT IN ELLIS COUNTY

To understand the nature and duties of the sheriff's office in Ellis County it is necessary to examine the work required of him as a servant of the courts. To know what part or portion of his time is spent with the courts and in carrying out the orders and serving the papers from the several courts in the county. Furthermore it should furnish a basis for the discussion of the sheriff as a conservator of peace in a later chapter.

For the most part the work of the sheriff's office is as executive agent of the court.¹⁷ At each session of the higher courts he must be present in person or by deputy, and maintain order in the court.¹⁸ In Ellis County the district court has been in session on an average of 29 days a year over a period of ten years, which means the sheriff or his deputy spent 29 days in court service each year.¹⁹ Subtract 29 days for court service, or actual time spent in the court

17. See table 1, p. 19.
18. Kansas. Revised Statutes, 1923, Chap. 19, Sec. 812.
19. Ellis County, Sheriff's Day Book, 1920-1930.

room and 52 days for Sunday, leaves 284 days left for other service. Of this remaining 284 days he (1916-1926) spent 70% of his time carrying out orders of the courts, such as: serving jury summons, tax warrants, summons to the district court, subpeonas for the district court, by the district courts in other counties, order of sale, executions of the district court, or he spent 198.8 days as a servant of the court carrying out its orders. This leaves 95.2 days to enforce the laws of the state in the local county.²⁰

The sheriff's duties then as a servant of the court, as in Anglo-Saxon times, occupy the major interest of his time today. This is one phase of his office in Ellis County that has not changed much, except the sheriff's military powers, from its original purpose. In England the sheriff was the King's chief representative in local court system and the same is true of our present system; the sheriff is the state's representative in our local courts.

In a survey made, based on the sheriff's fee book, covering a ten year period from 1916 to 1926,

20. See table 1, p. 19.

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it was found that the sheriff in Ellis County served 2341 papers issued by the local courts of the county.²¹ During the ten year period from 1920 to 1930, the sheriff made 1130 jail commitments. Considering the two periods, he spent 68% of his time in the service of the courts and 32% of his time in the service of the state as a conservator of peace.²² Of this time in service of the court the district court required the major attention. From the total cases of 2341 papers served, 863 of those were from the justice of peace court, 54 from the probate court and two came from the county health officer, which leaves 1678 which came from the district court.²³

Thus it is plain to see that the sheriff may truly be called a servant of the court. He spends most of his time in carrying out the orders of the several courts, besides the actual time spent in court sessions each year. On the other hand it is hardly safe to classify the sheriff as a peace officer,

21. Ellis County. Sheriff's Fee Book, 1916-1926.
22. Ellis County. Sheriff's Jail and Fee Book, 1920-30.
23. See tables 1 and 11, p. 19 and 20.

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as he spends so little of his time in actually preserving and protecting the people of his county. Now this kind of an arrangement may have proved successful two centuries ago, when crime was confined to a small area, and the means of transportation were slow. But these are no longer the facts, no longer the odds the sheriff has to work against in this county.24 With crime on the rampage, with the use of the automobile and the airplane, the old Anglo-Saxon set-up for the sheriff is now inadequate to cope with modern crime and science used by the underworld in the twentieth century. It is not necessarily a reflection on the man in the sheriff's office, but the restrictions placed upon him by our old statutes; by the work of the courts forced upon him; the time required as custodian of the jail; all these render him very inadequate for the law enforcement under our century old system.

The following tables I, II and III show the frequency and distribution of papers issued by the district court and served by the sheriff of Ellis County.

24. Kansas Legislative Council, Research Department. State Police, p. 14.

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TABLE I

PAPERS ISSUED BY THE DISTRICT COURT²⁵

1916 to 1926

Kind of Papers Served	Times Served
and the second second	
Summons district court	945
Subpoenas district court	469
Tax warrants	392
By dist. court in other counties	186
Executions district court	226
Search warrants	45
Order of sale	47
Jury summons	74
Attachment order of district court	24
Restraining order district court	24
Total	2341

25. This table was based on the sheriff's fee book of Ellis County, 1916 to 1926. 1916 to 1926 was used instead of 1920 to 1930 due to the fact that records from 1926 to 1930 were not complete at the sheriff's office.

TABLE II

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THE PAPERS ISSUED AND SERVED BY THE SHERIFF FROM COURTS OUTSIDE THE DISTRICT COURT²⁶

By whom issued	Number of papers
Asteriotes	
Justice of peace	807
Probate court	54
County health department	2
Total	863

26. This table was based on the sheriff's fee book of Ellis County, 1916-1926. 1916 to 1926 was used instead of 1920-1930 due to the fact that records from 1926 to 1930 were not complete at the sheriff's office.

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TABLE III

THE FREQUENCY OF DISTRIBUTION OF PAPERS

SERVED BY THE SHERIFF OF ELLIS COUNTY27

Times served Kind of papers served 756 Warrants to arrest 538 Summons 508 Subpoena 270 Executions 88 Giving notice 72 Jury service 58 Probate court service 41 Attachment 33 Garnishee summons 32 Tax warrants 15 Restraining order 9 Sheriff's deeds 8 Search warrants 7 Contest notice 7 Drawing jury Posting primary and general election notices 4 3 To state hospital 3 State reform school 2 State prison 2 Revoking parole 1 Petition 2490 Total

27. This table is based on the sheriff's day book, Ellis County, 1920-1930. The summary of table III shows, as does table I, the facts supporting the contention: that the sheriff in this county is for the most part a servant of the court and not a peace officer. Of the total cases of 3471 handled by the sheriff 2341 will fall under the sheriff's duties as a ministerial agent of the court, while 1130 cases may be classed as a conservator of peace. Sixty-eight percent of the sheriff's time, based on the number of notices, summons, and subpoenas was spent in service of the court and 32% was spent in the service of preserving peace. The sheriff served on the average of 50 papers for the county per month and attended the district court on an average of 29 days per year.

With the transfer of many powers formerly possessed and the development of new offices, the sheriff has lost his position as chief county officer. But the powers retained and the traditions of the position stand in the way of any other office attaining that rank. One of two changes in the situation would seem to be advisable. Either the sheriff should again become the chief executive officer of the state in the county, transferring the

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ministerial function to an undersheriff; or, some other officer should become the chief executive and the sheriff be confined to his ministerial duties as court bailiff. Complicated as modern society is, it would hardly be good judgment for the people of this commonwealth to expect to meet changing conditions in the next decade with the sheriff's authority divided between a conservator of peace and a ministerial agent for executing the decrees of the courts of the county.

ative duty of the county beard to make any tapatte reader mended by the grand jury.

The cheriff must be allowed a feathering of the county for knowing each prisoner (the per neal of 1000 per day). The county is sufferized to recaise off or

County must saintain jail is beninded and sanitary short tion. Norton x. Simms, 65 K. She, 574. 29. Kenvan, Bevised Statuter, 1963, these 19, set. 1979

30. 1116.

^{22.} Ransas. Revised Statches, 1923, thep. 39. More light Duty of constants to furnish wood and stifferent fait. County lights to dispits only, for board and lodging of prisoners. Hendricks V. Constra of Chautenque Con. 25 M. 403, 485. County noi lights to insates for unsemilary condition of County noi lights to insates for unsemilary condition of

Chapter IV

THE SHERIFF AS CONSERVATOR OF PEACE AND CUSTODIAN OF JAIL

Every county in Kansas is required by law to maintain a county jail at the county seat.²⁸ The sheriff is required in person or by deputy to keep the jail. He must keep separate cells for the sexes and must supply food, drink and fuel to the prisoners. At the beginning of each term of court the district judge and the county attorney is required to inspect the jail and report in writing to the county board.²⁹ Any grand jury in session is also required to inspect the jail.³⁰ It is the imperative duty of the county board to make any repairs recommended by the grand jury.

The sheriff must be allowed a reasonable amount by the county for keeping each prisoner (20α per meal or 60α per day). The county is authorized to receive pris-

^{28.} Kansas. Revised Statutes, 1923, chap. 19, sec. 1901.
Duty of commissioners to furnish good and sufficient jail. Comm'rs of Osborne Co. v. Honn, 23 K. 256,258.
County liable to sheriff only, for board and lodging of prisoners. Hendricks v. Comm'rs of Chautauqua Co., 35
K. 483, 485.
County not liable to inmates for unsanitary condition of jail. Pfefferle v. Comm'rs of Lyon Co., 39 K. 432, 436.
County must maintain jail in healthful and sanitary condition. Norton v. Simms, 85 K. 822, 824.
29. Kansas. Revised Statutes, 1923, chap. 19, sec. 1902.
30. ibid.

oners from other states and counties or from the United States Government; and to make a reasonable charge for keeping them. If any judge decides that the jail of his county is not a fit or proper place to keep a prisoner he may commit him to the jail of a nearby county, to be kept at the cost of the county from which he is sent. The prisoners of Hays City, Kansas are kept in the Ellis County jail, at the expense of the city.

In certain counties special deputies to serve as jailers may be appointed. In counties of more than 35,000 population the county board may authorize the appointment of a matron of the jail who has the proper authority of a deputy sheriff.³¹ Such matrons are in charge of all women arrested and of the women's portion of the jail. No woman related to the sheriff by blood or marriage may be appointed to the position of matron.³² Since the care of the jail and its prisoners come under the scope and duty of the sheriff in Ellis County, a survey of his jail record is essential.

Major and Minor Crimes

The survey of this subject has been divided into

31. Kansas. Revised Statutes, 1923, chap. 19, sec. 1901 32. ibid.

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two periods from 1910 to 1920 and 1920 to 1930. In the first ten year period there were 457 cases committed directly to the county jail. 33 Of the total number of cases, 92 or 20% were committed directly by the sheriff of the county, the remainder having been the direct action of the city marshal and justice of peace. The kinds of crime handled by this group of officers may be classified into two groups, as major and minor crimes. In the minor group such crimes as distrubing the peace, drunkenness, gambling, and stealing rides on trains composed 286 or 62% of the 457 cases recorded. The major group is composed of such crimes as car theft, murder, forgery, bad checks, and robbery. These constitute 38% of the crimes committed in Ellis County. The minor crimes of the county are largely handled by the sheriff, marshal, and their deputies, while the major crimes are not confined to a limited area and as a result they need some unit of policing that is state and national in its scope. Also it is not the minor crimes that are on the increase so much, but the major crimes.34

Another problem in the field of major crimes

33. Ellis County. Sheriff's Jail Record, 1910-30.
34. See tables IV and V, pages 28 and 29.

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has to do with finger printing. The sheriff is now required to make finger prints of all major criminals that 35 he confines in the county jail. He then sends in the print and all other information concerning the criminal to Washington to the bureau of identification, where the record is filed. In case the prisoner has a criminal record, all information that the government may have in its files are forwarded to the local sheriff, with any instructions they may have concerning the prisoner. Here again we find the local sheriff unable to meet the demands of the law, since in very few cases is the sheriff or his deputy able to make the proper finger prints. Finger printing requires someone that has been trained in this field and knows how it is done.

The following tables shows the increase in major and minor crimes.

35. Kansas. Revised Statutes, 1923, chap. 21, sec. 2501.

TABLE IV

NUMBER AND INCREASE IN MINOR CRIMES AND INVESTIGATIONS³⁶ 1910-1920 to 1920-1930

Vind of criters	(Tenas)		
Kind of crime	Number 0-1920	in: 1920-1930	Increase or decrease
Bootlegging	- 36	116	222% increase
Drunkenness	110	114	3.6% "
Disturbing the peace	>45	33	Decrease 26%
Stealing ride on train	26 👥	15	**********************
Gambling	57	23	60%
Investigation	12 9	73	508% increase
Total	286	374	605.6% total net increase

36. Ellis County. Sheriff's Jail Record, 1910-1930

37. Bined on the sheriff's fail second diffs foundy 1910 to 1950. Mintr primes made a total ort gain of 605105 and major primes made a total pet gain of 10125.

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TABLE V

NUMBER AND INCREASE IN MAJOR CRIMES³⁷

1910-1930

Kind of crime	Number 1910-1920	in: 1920-1930	Increase or decrease
Stealing	6	11	83% increase
Murder	5	4	decrease 25%
Robbery	8	17	83% increase
Bad check	7	46	559% "
Forgery	12	16	33% "
Rape	7	15	114% "
Grand larceny	9	29	222% "
Assault and battery	35	18	decrease 90%
Car theft	3	_19	533% increase
Total	92	175	1512% total net increase

37. Based on the sheriff's Jail Record Ellis County 1910 to 1930. Minor crimes made a total net gain of 605.6% and major crimes made a total net gain of 1512%.

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While there has been an increase in crime in the minor group, they are of such a nature that local authorities can deal with them. The attitude of the local community is also reflected in this group of crime. For example, there was an increase of 222% in bootlegging during the period from 1910 to 1930. However the results in the major crimes show a total increase of 1512%. This is the class of crimes that is beyond the control of the local officer and the type of crimes that will be dealt with mostly in the future. It is quite evident that they constitute a serious threat in Ellis County today.

In the minor group, bootlegging and drunkenness showed an increase over the last twenty years, but local officers of the law can meet this kind of crime. In the major group, such crimes as stealing, bad checks, and car theft were on the increase. How can local authorities, who's jurisdiction limits them to one county, expect to apprehend such acts as car stealing? It isn't like horse theft, when the radius of the crime was confined to one or two counties; for a car stolen in Hays today may be found on the western coast in 48

hours.

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What is needed is protection for the states as a unit with a system of police combing the state at all times, from one end to the other. This is not the only class of crime that the local officers are not able to furnish protection from, but such crimes as kidnaping, that has an interstate range. To combat this type of crime such an organization similar to the federal department of justice men could be established in each state.

Paroles and Bonds

The use of paroles and bonds were common and especially was this true in liquor cases in this county. In a study of 1000 cases, 1920 to 1930, in the sheriff's jail record there were 42% of the cases paroled, 44% were let out on bond and 14% served their full time.³⁸ Here are two cases that are not extreme either way: Mr. A. K. was arrested for violation of the bone dry law, found guilty and fined two hundred dollars and sentenced to ninety days in jail. He served 13 days and was paroled by the district judge. Mr. E. D. was found guilty for violation of the bone dry law and was fined three hundred dollars and sentenced to 15 months in jail.³⁹

38. Ellis County. Sheriff's Jail Record, 1920-1930.
39. Parole system a failure. The universal criticism

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He served 60 days and was paroled. In neither case did the records show whether the fine was paid.

Classification of Prisoners

Based on the ten year period 1920 to 1930, there were thirty boys sent to the reform school from Ellis County. During this same ten year period there were nine sent to the state prison from Ellis County

of the American parole system, following the capture of the west coast kidnapers, should bring about a change in the method of handling criminals, and that at least would spare a blush of shame to decent citizens. In nine cases out of ten of major crimes it usually turns out that they were committed by ex-convicts out on parole. One of the first questions asked now when kidnaper is caught is "what state prison was he paroled from?"

Take the case of Harmon Waley, Kidnaper of the Tacoma, Wash. boy, as example, as commented upon by the New York Port:

"In 1929 Waley was sent to a reform school for burglary.

"In 1930 he was arrested for another burglary, given one to 15 years.

"The sentence meant nothing, for in less than a year he was caught in still another burglary. This time he was given two to fifteen years.

"But the second sentence was a sham, for he soon was released and three months later sent up for grand larceny, with two to fifteen year term.

"Even that third sentence didn't "take" for he soon was paroled--and in 1933 at Salt Lake City for robbery, with theft of an automobile. Because the authorities were merciful, his charge was changed to vagrancy and he was out after six months.

"A few weeks later he was seized in Tacoma, scene of the kidnaping, as a parole-violator--nothing and five sent to the state hospital. All other prisoners fulfilled their sentence as far as confinement is 40 concerned in the local jail.

As Custodian of Jail

For the most part the county jail is a place where prisoners may be held over night and for investi-In a majority of the cases the sentences gation.

was done about it.

"Next he showed up in Camden, N. J. where, under the city law, he registered as a convicted criminal. Altho Waley then was sought as a parole violator in Tocoma, planning his "snatch."

"What an astounding record! What a ghastly reflection on our cumbersome system of criminal justice which leaves states largely helpless to track down parole violators who flit from one state to another.

"At a time when pardon boards in New Jersey, New York, Ohio, Pennsylvania and other states have been notorious for setting killers loose faster than police can gather them in--

"The record for Harmon Waley calls for federal action, for some federal agency which can be organized, to keep track of criminals and parole violators who seek sanctuary by jumping state lines.

"Too, the parole system must be sharply curtailed. Excellent in theory, it has been subject to wholesale abuse. There is no imaginable reason why a man with a record like that of Waley should have been granted a parole.

"When we know that most of the major crimes today are committed by habitual criminals, we only invite more such crimes by failing to keep those criminals in jail, instead we extend them mercy because the sentimental parlor penologists want us to do so."*

*This article was taken from the Topeka Daily Capital, June 15, 1935.

40. See page 34, table VI for the classification of crimes sentenced to the Ellis County Jail.

TABLE VI

40. CLASSIFICATION OF CRIMES AND PERSONS HELD FOR INVESTIGATION TEN YEARS 1920-1930*

Concealed weapons Escaped Adultry	5 3
Escaped Adultry	
Adultry	
	1
Bootlegging	116
Contempt of custody	1
Grand larceny	29
Drunkenness	114
Assault and battery	18
Disturbing the peace	33
Pick pocket	1
Stealing ride on train	15
Rape	15
Insanity	8
Gambling	23
Joy riding	1
Bad check	46
Investigation	73
Forgery	16
I. W. W.	5
Robbery	8
Car theft	19
Child and wife dessertion	5
Murder	4
Stealing	11
Stealing chickens	the prisol
Dope	1
Bastardy	2
Street Walking	1
Jumping board bill	1
Arson	3

*Based on the sheriff's jail records from 1920-30.

ranged from one day to one year. Out of the 680 cases, 4366 days were served, or an average of six days per prisoner.⁴¹ The most extreme case found, was that of L. B., guilty of burglary who was held in jail 60 days before he was brought to trial, and then sentenced to five years at the state prison.

It is not a part of the sheriff's duties to provide a jail, hence this report on the jail will not deal with the physical features of the jail. It is however the sheriff's duties to keep the jail clean and sanitary and see that prisoners receive the proper attention as to cleanliness and health.⁴² It is at this point of health that leads to a discussion of the jail itself. The Ellis County jail is located in the base-

ment floor of the south and west side of the court house. The windows are so covered with bars that little light, air or sunshine may get in. The sheriff lives in this same section and feeds and cares for the prisoners from his quarters. The jail would have a very low rating from

41. Ellis County. Sheriff's Jail Record, 1920-30. 42. Kansas. Revised Statutes, 1923, chap. 19, sec. 811. County liable to sheriff for necessary repairs and supplies. Norton v. Simms, 85 K., 822, 827. a physical report on the building,⁴³ and does not in any way, shape or form comply with the requirement concerning separate quarters for women prisoners, children and the defectives.⁴⁴

Since the Ellis County jail does not have provisions for separate quarters for women prisoners, all women prisoners are sent to Beloit, Leavenworth or Lansing as soon as they are sentenced. However, it is sometimes necessary to hold a woman prisoner for a few hours or possibly over night and in that case the county has a 'holdover', or a room that can be used for that purpose. In most cases women prisoners are held for a very few hours, since they are let out on bond or sentenced and taken to the state prison as soon as possible. Women prisoners never serve a sentence in the Ellis County jail.

The statutes also provide that care must be taken that the prisoners' lives be not endangered by fire and it is doubtful if the Ellis County jail will fully meet this requirement.

43. The sheriff of Ellis County, 1935 said, "The jail in Ellis County, Kansas, has not been approved for confining federal prisoners."
44. Kansas. Revised Statutes, 1923, chap. 19. sec. 1001.

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Chapter V

FINANCIAL ASPECT OF THE SHERIFF'S OFFICE

The county sheriff and any officer collecting money for the county, are required to prepare and file with the county auditor,⁴⁵ a sworn statement of all fees, fines and other moneys collected by such officer belonging to such county.⁴⁶

From the above statement it is evident that the sheriff is to keep a set of records and turn into the county clerk or auditor a sworn statement of all money handled for the county. However, it was in this department of the sheriff's office that his records were most poorly kept and incomplete. As a result the records of the county clerk and treasurer were used to obtain the quarterly statement of the sheriff from 1930 to 1935. The county clerk furnished the information that the sheriff had not filed any financial returns from his office during the period 1930 to 1935. He had turned in a monthly statement for mileage and that was the extent of his financial reports.

Here again we find the law stating what is required from the sheriff's office concerning fees, and reports, but does not provide for enforcing the law.⁴⁷ The

45. Kansas. Revised Statutes, 1923, chap. 19, art. 626. 46. ibid. Chap. 19, art. 625. 47. ibid. Chap. 19, art. 626. sheriff had a set of books but who could compel him to keep them and make the proper reports to the county auditor or county clerk? The facts in this case remain that the sheriff did not make any reports during his four years in office and that he handled personal property tax warrants during this time that amounted to a total sum of \$15,699.65.⁴⁸

The point in this case that grew out of the situation was; when his regular term of office expired and the new sheriff took office a deficit of \$1,049.92 was revealed by a special audit of that office. When personal tax warrants are turned over to the sheriff for collection, he has sixty days to report back to the county treasurer on the warrants issued to him.⁴⁹ He can make one of three reports on warrants in hand: paid in full, property disposed of, or payment made on total.⁵⁰ It was in the last mentioned item that the shortage was found, when a payment had been made on the total and when the new sheriff took office he tried to collect the whole amount. An audit was ordered and by the permission of the county clerk a copy was obtained and included as a part of this chapter.

48. Ellis County. County Clerk. Auditor's report on sheriff's office, 1930-34.
49. Kansas. Revised Statutes, 1923, chap. 79, art. 2101
50. ibid. Chap. 79, art. 2107.

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Following is a copy of the county audit on the sheriff's office in Ellis County.

Audit of the Sheriff's Office

1930 to 1934

Peter Deboer-sheriff

"Sheriff fees from the clerk of the district court were paid direct to the county treasurer. Fee receipts from foreign courts and miscellaneous fees were accepted as recorded in the fee book of the sheriff. The fee book was proved by addition and the amounts traced into the records of the county treasurer.

All personal property tax warrants shown paid by the records of the sheriff were proved by addition. Receipts from all sources and all disbursements of this office are given in detail in Exhibit "D", a brief summary of which follows:

Exhibit "D"

Receipts

Personal property tax warrants	\$10,469.13
Sundry fees	26.10
Total	\$10,495.23
Disbursements	
To the county treasurer	9,449.31
Difference	1,049.92

Personal property tax warrants in the hands of the sheriff at the beginning of the period and those charged to the sheriff by the county treasurer during the period were all accounted for as being paid and returned to the treasurer or as being unpaid and returned to the treasurer.

An analysis of the tax warrants handled, is given in schedule "4".

SCHEDULE "4"

Personal property tax warrants collected\$10,469.13Personal property tax warrants uncollected5,230.32Total warrants handled\$15,699.69

APPENDIX

ELLIS COUNTY, KANSAS

Peter Deboer, sheriff Receipts and disbursements January 1, 1934 to January 14, 1935.

Subsequent to the filing of our report dated March 4, 1935, on the fee offices of your county, conditions arose which made it advisable even though it was beyond the scope of the provisions of our contract, to send out letters of inquiry to individuals who, <u>according to the records of the sheriff</u>, <u>had not paid</u>

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their 1932 and 1933 personal property tax warrants at a January 14, 1935.

As a result of the replies to letters sent out, it was found that a total of \$310.33 receipts had not been included by the sheriff in his record of receipts. The detail of the items comprising this amount is given in the attached schedule and the amount was settled in full by payment to the county treasurer on April 23, 1935 and May 4, 1935. These payments are receipted for on the treasurer's miscellaneous receipts numbers 3012 and 3015.

Ellis County, Kansas

Peter Deboer, Sheriff

Receipts on 1932 and 1933 P. P. tax warrants to January 14, 1935 as shown by supplementary records or acknowledged by sheriff or both sworn and acknowledged at April 23, 1935.

The above audit shows to some extent the need for more regulation and supervision in the field of county government. There was, in this case, no one who had the authority to check the sheriff's Fee book and the personal tax warrants that were in his hands for collection. As a result, for four years this sheriff was allowed to do about as he pleased, and there are several indications that there

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were other possible irregularities in his office. Some central office of supervision is needed, so that things of this kind may be picked up before a period of four years has elapsed.

	SCHEDULE	
Tax year	Warrant numbers	Amount
1932	1435	\$100.00 (part)
	1845	91.57
	1535	3.40
tog is a stissp	1878	12.00 (part)
	1624	19.15
	1773	13.77
	1535	3.40
	1531	3.43
	1550	5.00 (part)
1933	2390	5.23
	2191	14.85
	2087	10.00 (part)
	2181	12.10
ty over the first	2245	6.12
51. Ellis Cour	2321	7.05
		1.46
	2154 Tota	1.80 3310.33
Misc. receipts Misc. recipts 3	Tota 3012 dated 4-23-35 0015 dated 5-4-35 Tota	286.86

Expenses of the Sheriff's Office

A complete financial report on the sheriff's office is almost impossible due to the fact that a proper and detailed system of accounting is not installed and kept. Hence it was necessary in this particular case to disregard the sheriff's office and obtain the information from the county clerk and treasurer's office, where a more complete record is available. Following is an attempt to show the total capital out-lay for maintainance of the office over a period of five years.

The sheriff's regular salary is \$150.00 per month, but due to the State Legislature, it was reduced to \$133.34, which makes the average monthly salary \$141.67 from 1930 to 1935.⁵¹ The sheriff has a regular deputy who receives a regular salary of \$50.00 per month, but his salary was reduced also to \$41.66, which makes his average for the five year period of \$45.83 per month.⁵² The average yearly salary for the sheriff in Ellis County over the five year period was \$1700.04 and for his

51. Ellis County. Commissioners Journal, 1930 to 1935. 52. ibid. 1930 to 1935.

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deputy, \$499.92.

In addition to their regular salary, certain fees and expenses are paid. The county paid an average of \$15.20 per year for "bonding" fees for the sheriff; under the title of "expenses", such as postage, box rent, telephone, supplies for his desk etc., the county paid a total of \$537.88 over the five year period or an average of \$107.55 per year. The county paid \$4.80 per year for "Drawing the Jury", and \$10.00 per year for expense on the jail.⁵³ The cost per year to feed the prisoners amounted to \$1,083.07, or an average of \$2.93 per day.⁵⁴ The sheriff served approximately 15 meals per day for the five year period. The mileage amounted to \$1,409.45 annually for the five years, or \$4.40 per day.⁵⁵

The county pays the sheriff a flat rate of \$30 per month for "attending jail. The sheriff is expected to keep the jail clean and in a sanitary condition, and such other items as the jail laundry.

The total expense for the office including salaries and all other expenses was \$4,830.81, the yearly

53. Ellis County. Commissioners Journal, 1929 to 1935. 54. ibid. 1929 to 1935. 55. ibid. 1929 to 1935.

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average for the five year period.⁵⁶ It is impossible to check this amount against the number of prisoners, because of this expense a large proportion of it is for the sheriff's court service. However it is possible to check against his fee record. The sheriff collected \$16,309.01 in court fees and personal taxes and turned to the county treasurer during the period of 1929 to 1935, or an average of \$2,891.50 per year.⁵⁷ The large part of this yearly average was personal property tax, due to the depression, and here again, it appears that the sheriff is not only a servant of the court and preservor of peace, but also a tax and fee collector.

These statistics, however, are given as incomplete since there is no record of all receipts and expenditures of the office. Where the costs were paid by the county, fees are sometimes not made a matter of record, also where fees are paid from outside counties they were not recorded in all cases. In the first place; with the amount of money that is now handled by this office today, a full-time bookeeper is needed to relieve the sheriff of this routine work and his books kept so you can read them

56. Ellis County. Commissioners Journal, 1929 to 1935. 57. Ellis County. County Treasurer, Receipts money paid in Ellis County, 1929 to 1935.

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when they are "Filed". A complete and up-to-date system of records and some means to see that they are kept, as the sheriff's records in this case were in very poor shape, was certainly evident in his office.

real, that airpars may can all the house sard returns of the second sheriff. As for as the statutes of featers are and the second the property of the second sheriff at the local ballot in human and the barraness interest in this particular affice " the forest second the barraness interest in this particular affice " the forest second the barraness is the local ballot in human and the barraness is the local ballot in human and the barraness is the statutes of the barraness is the second to how the to properly contribute the barraness is a local to how the to properly contribute the barranes is a local to how the to properly contribute the barraness is another to how the to properly contribute the barranes of also

55. Kanmas, Nevised Elettrics, 1965, dap. 18. 681 (19. 55. 1012, Chap. 18, see. 801. Institute then History Channel of disbility before taking office. Front. 4 So. In the primery election in 1954 there were electrical linears and all democrats files their deplaration for the chariffle.office. 51. No. 259, poince court Hays. Komeda, 5. 5. Wrashill authlice of the prace, March 18, 1925.

Chapter VI

PERSONNEL OF THE SHERIFF'S OFFICE

No exaggeration is involved in the statement that the control of the personnel in the sheriff's office constitutes one of the most import as well as the most difficult problems to meet in our efforts in crime prevention today. A glimpse at our present statutes will reveal, that anyone who can poll the necessary votes may be 58 As far as the statutes of Kansas are elected sheriff. concerned, anyone regardless of his past record and qualifications (must be a qualified voter before he can be sworn into office) is eligible for the sheriff's office.59 With the use of the long ballot in Kansas and the increased interest in this particular office,⁶⁰ the voters at the polls are at a loss to know who is properly qualified. The secret of election in some cases seems to be the less that is known about a candidate, the better his chances of election.⁶¹

58. Kansas. Revised Statutes, 1923, chap. 19, sec. 801.
59. ibid. Chap. 19, sec. 801. Ineligible when elected; removal of disability before taking office. Prevett v.
Bickford, 26 K.52.
60. In the primary election in 1934 there were six republicans and six democrats filed their declaration for the sheriff's office.
61. No. 259, police court Hays, Kansas, B. C. Arnold justice of the peace, March 19, 1927. The statutes are very plain concerning the qualifications for some of the other county officers. The county attorney's qualifications are set forth very plainly,⁶² which might lead one to interpret the statutes to imply that, it takes someone trained and skilled to judge and administer the laws of our state, while just anyone can enforce them. Covering a period of fifty years in Ellis County from 1885 to 1935, there were twelve different men elected sheriff of the county.

The following table will show the distribution of occupations from which the sheriffs in Ellis County were selected from 1885 to 1935.

62. Kansas. Revised Statutes, 1923, chap. 19, sec. 701.

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Table VII

Distribution of Occupations⁶³ 1895 to 1935

Occupation	Number	from each
Blacksmith		1
Laborer		1
Meat Cutter		1
Plasterer		1.
Farmer and rancher		2
Real estate		- 2
Railroad		2
Police officers		_2
Total		12

63. This material was obtained by person interviews.

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Based on Table VII only two of the twelve men could be classified as officers of the law before they were elected sheriff. That the remaining ten men had a chosen field of occupation before being elected sheriff and in all probability returned to their chosen field from the sheriff's office. This does not infer that these men were not good sheriffs, but it does show that they were not trained in the field, the office of sheriff was a sideline in their life work.

Another important point to consider in the record of these twelve men is, whether they had had experience in law enforcing before being elected to the sheriff's office.

The following table shows the qualifications of the men as officers of the law, prior to their election as sheriff of Ellis County from 1885 to 1935.

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TABLE VIII

QUALIFICATIONS PRIOR TO THEIR ELECTION⁶⁴ 1885 to 1935

Kind of experience addres a decoder	Percentage
Undersheriff	25%
City marshal	16%
Officer of United States Army	9%
No experience	50%
silie in office. Forthermore in	

In Table VIII, three men had had experience as a deputy or undersheriff ranging from two to four years; two had had experience as city marshal, one at Hays and the other at Ellis, Kansas; one had had experience in the United States Army located near Hays in the early days and FIFTY percent of the twelve men had had no previous experience as an officer of the law before entering the sheriff's office.

64. This information was obtained by personal interviews.

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Now this kind of training may have been sufficient to meet and enforce the laws in the last fifty years but for the next fifty years such training and qualifications seem inadequate to cope with the situation. Another defect in our laws seems to be the limit to the tenure of office. After a man has served two consecutive terms he is forced to drop out, 65 to go back to his chosen occupation or work of some kind, that he may make a living. This prevents a man from applying to actual practice what knowledge and information he does acquire while in office. Furthermore the general practice seems to be that each sheriff would select some of his personal friends to the position of deputy and as a result, with each change in the general election, not only the sheriff but his deputy is almost sure to change. Not only is the experience of the sheriff but the deputy's likewise lost.

The following table shows the tenure of office of the sheriffs in Ellis County from 1885 to 1935.

65. Kansas. Constitution of Kansas, Art. 4, Sec. 2. Meaning of regular and consecutive terms. Horton v. Watson, 23 K., 229, 231. (This case was based on the county treasurer's office, but would possibly be used as a precedent for a test case in the sheriff's office.

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TABLE IX

TENURE OF OFFICE⁶⁶

1885 to 1935

Tenure	Percentage held
One term	16%
Two terms	5 9%
More than two terms	16%
Less than one term	9%

From Table IX a little over half were elected for two terms, while only two were elected for more than two terms and one of these was from the group that made law enforcement his business. Thus it seems there is a tendency for our sheriffs, after they have served two terms to drop out and become interested in some other pursuit in life. In all of our big business concerns, experience is considered as one of the requirements for promotion. In all of the state police systems, without

66. This information was obtained by personal interviews.

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exception, this method is used in determining the fitness for promotion. These three methods are used: (1) examination, both oral and written; (2) efficiency and tenure, (3) and the recommendations of superior officer. From the three methods used, two are based on experience and in the case of the sheriff the statutes prevent any continuous tenure of office.

Finally concerning personnel, something should be said concerning the educational fitness of our law enforcing officers. An attempt was made to survey the educational records of the twelve men from 1885 to 1935. The following table shows the educational qualifications of the men who have been sheriff in the last fifty years.

TABLE X

EDUCATIONAL QUALIFICATIONS

41%
9%
17%
25%
8%

** Records and facts not complete. ** Two of the men were educated in Germany. *** Some of the schools have been discontinued.

Table X is not submitted as complete in itself, but the best that could be obtained under the conditions. Two of the men were educated in Europe and of course it was impossible to check their record with their story and one or two of the schools have been discontinued. However, after checking all the records available, the facts presented represent very nearly their educational qualifications. From the facts presented on the subject, it appears that a common school education will represent the average education for the group. This represents another weak spot in our laws, since no qualifications (only that of a voter) of any kind are required in the sheriff's office. If the "brains" of the under world were a common school graduate our sheriffs would at least be on a par, but the general indications are that the underworld is "ruled" by some of the best educated men in America and as a result we need better trained men in our sheriff's office today. 67

The general need and trend in this field of training is indicated by the fact that our state police system in United States have a special school to train

67. G-Men's Crime College Opened to City and State Police as a part of the plan for better campaign. Hays Daily News, July 1, 1935.

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their men for that organization.⁶⁸ This does not mean they must hold higher degrees from some college, but does indicate that special training in this special field is needed. The curricula for such training should include such subjects as criminal law and procedure, methods of investigation, reporting criminal complaints, traffic and riot control, first aid and allied subjects bearing directly on the subject of police, such as geography, transportation and highway system and civil government.

Finally the experience of a vigorous disciplinary system is not present under our sheriff system and few if any sheriffs have any disciplinary experience. The Governor of the states can not discipline the sheriffs and the sheriff in turn does not discipline his undersheriffs. As a result one of the most important qualifications as an officer of the law is untouched by our present day sheriff. We need better pay for our officers with the hopes of getting better timber for recruits. (The results of special trained men in this field may best be indicated by the work of the government men in

68. Kansas Legislative Council, Research Department. State Police p. 66.

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the case of Harmon Waley, Kidnaper of the Tacoma, Washington boy, as commented upon by the Topeka Daily Capital)⁶⁹

At last, we need the same definite requirements written into our laws as we now have for county attorney. The outstanding requirement for our sheriff today, is that he be able to furnish bond of a few thousand dollars.⁷⁰

What is marked tonay if a structure of a state of the sta

69. Topeka Daily Capital, Saturday June 15, 1935. 70. Kansas. Revised Statutes, 1923, chap. 19, sec. 802.

Chapter VII

CONCLUSION AND SUGGESTED REFORM

It is neither necessary to seek nor introduce reform, unless there is a real need for it. After this study of the sheriff's office, if this county is in the least representative of conditions in the state, it is time some action need be taken. The first reform that suggests itself has to do with the county as a unit. The size of our counties as a unit has long become too small in its application to modern society. Distance is no longer measured by how far the horse and buggy can travel in one day, but how many hours it will take to cross the Atlantic. If the underworld was still using old fashioned and out-of-date methods there would be no alarm or need for change. But as long as society lags behind crime in its methods and is handicapped by worn-out laws, just so long will we continue to stay behind the criminal, instead of the criminal behind the bars.

What is needed today is a state unit of crime prevention, directed from one central authority, vested in the Governor at the head. It is the State's laws and not the county, that are broken, it is the Governor who is held responsible for law enforcement, not the county. Under this situation when a criminal is escaping from one county to another, county lines need no longer act as a barrier for the law, and by the time state lines are reached, the neighboring state may be informed and aid in the capture. Therefore a unit is needed the size of our state as a basis for police protection.

The next logical reform would have to do with the method of election of our present sheriff. The sheriff's office is one of the most visible and sought after office in the county today. As a result all kinds and classes of men are seeking the office. With the large number of names on the primary ballot for this office it is impossible for the electorate to inform themselves of the records and qualifications of each of these men and as a result, the one who has the most "friends" and the biggest "pull" is elected. Winning the primary election on the Democratic ticket in Ellis County, usually guarantees election. As far as the statutes are concerned anyone who is a qualified elector can be elected to this office, irrespective of his former experience in the field of law enforcing. Can we expect to continue with this haphazard system of selecting officers of the law? Can we expect to prevent or even meet crime in the

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future with this system of selecting officers? Also our present system of restricting a good man from serving more than two consecutive terms, prevents them from capitalizing on their experience, and as a result the public suffers. It is suggested by students of government that the sheriff be appointed by the governor if he is to be an officer of the law and by the district judge if he is to be confined to functions as wholly ministerial.

The next reform suggested is concerning the sheriff as a ministerial agent of the court, and conservator of peace. It seems to be impossible to expect much from our sheriffs in either capacity with the increased work each department of his field is bound to have. It seems logical to divide the work and retain the sheriff's office as a servant of the court, appointed by the district judge for life or good behavior. The office with its incumbent as a peace officer should become a part of a state police system. At the head of the state police there should be a chief of police appointed by and responsible to the governor of the state. This officer would be charged with the appointment and oversight of the officers in the county who would perform the present peace function of the sheriff. There would be at least one local officer in

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each county who should be required to reside therein. Recent disturbance and attempts to enforce the prohibition laws and deal with labor disturbances are evidences enough of the failure of the present irresponsible disintegrated system and a uniform law enforcement can best be secured under a centralized system of the nature herein proposed.

Jails

With the amount of time required by the courts and in view of the suggested arrangement for the sheriff the control of the jail should fall under some new head. In the first place the present day sheriff is not a specialist in the field of criminology and has little interest in improving the present methods of dealing with county prisoners. As a result we find men confined to our county jails for terms of thirty, sixty or more days of idleness and when two or more men are confined together for periods of idlesness what can you expect, but bad psychology?

Another point to consider under our present set-up is the cost. When every county is forced to have and maintain a county jail by law, regardless of the

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size of the county, and the number of prisoners, the taxpayers must be taken into consideration as well as the moral effect on the inmates. A change in our present jailing system would require a change in our laws and something new created to take its place.

The most feasible plan would be to establish state farms or regional jails. If four counties would go together and establish one central jail or farm to be used by all, such as Graham, Rooks, Ellis and Trego counties, located at a point where the four counties join each other, it would give opportunity for more scientific management, as the prisons would be large enough to employ a trained supervisor. Again it would furnish a continuous work program where prisoners could be sentenced to thirty, sixty days, or one year at hard labor.

Another suggested plan is the state farm, supported by the state. It is the state's laws that are broken and it is the state against whom the crimes are committed, the state in turn should have some part and responsibility in caring for their prisoners. At least under the suggested plan the charge against our county jails that they are the "black" spot in American history today could be eradicated.

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Fees

With the increase work of our courts and the expansion of crime into rural areas, one change seems logical. The fee system at the present time requires a lot of time and attention from our sheriff that should and could be spent in preserving peace. With the increase in delinquent tax warrants today it appears as though this field will continue to grow. If a system of state police were adopted and the sheriff retained as a servant of the court, then the collecting of taxes would fall under that head. Also in the rates paid for fees, there needs to be a revision in the amounts paid. There is no reason why the sheriff should receive fifty cents for the service and return of a notice, while he gets \$1.50 for a sheriff's deed. It is suggested that there should be at least uniformity in fees of the office and placed under some head that has the proper time and attention to spend on them.

Accounting System

The one outstanding defect or weakness in the county offices, with the sheriff's office outstanding, is the lack of a systematic accounting system. In the case

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of the sheriff's office, in this particular county, he may not have the proper time to spend. But that should not prevent him from making an attempt to keep his records. Another minor point here, is the fact that, there is no authority to make regular checks on his office and see that his records are complete and accurate, not even the governor has this power. What we need is a unified system of county records, and some higher authority to check the results.

Kansas Highway Control

The fact that Kansas is interested in some new device in the field of police facilities is shown by the recent step taken in the highway patrol. At present the state highway patrol has not been in operation long enough to know what the outcome will be, but a few general statements concerning any police agency may be proper. In the first place, regardless of the name or title, a state system must not only be non-political in its actual operation, but there must be real confidence on the part of the public that its operation is non-political. Conducted as it is now, under existing offices, there is, justly or unjustly, no such conception in the minds of the average person in the state.

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Still another department of crime prevention regardless of whatever proceedure might be followed there seems to be a genuine need for a central bureau of identification. During the period of 1910 to 1920 the sheriff of Ellis County held for investigation 12 individuals and from 1920 to 1930 there were 73 held for investigation, or an increase of 508% in this field of crime prevention.

Finally, the performance of the highway patrol during the last 18 months would seem to indicate that there is a real need for rural police protection in Kansas, a need which was recognized in the law of 1933 which gave full police power to the highway patrol. Obviously, that patrol with its limited numbers would be inadequate to furnish general rural protection. Consequently, the experience of other states would seem to indicate that the logical development, if an expansion of the police facilities of the state is contemplated, would be along the lines of state police, directed by a superintendent independently of existing offices.

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