

VOLUME NO. 37

OPINION NO. 105

CHILD ABUSE - County powers regarding prevention and treatment; CHILDREN - County powers regarding child welfare services; COUNTIES - Powers to expend federal revenue sharing funds; powers to contract with private, non-profit service organizations; and powers concerning the following - prevention and treatment of child abuse; provisions for child welfare services; contracts with humane societies; county museums; and purchase of equipment for rural volunteer fire departments; COUNTY COMMISSIONERS - Powers to expend federal revenue sharing funds; powers to contract with private, non-profit service organizations; and powers concerning the following--prevention and treatment of child abuse; provisions for child welfare services; contracts with humane societies; county museums; and purchase of equipment for rural volunteer fire departments; FEDERAL FUNDS - County powers to expend federal revenue sharing funds; HUMANE SOCIETIES - County powers to contract with local humane societies; MUSEUMS - County powers regarding the acquisition, establishment, and management of museums; RURAL VOLUNTEER FIRE DEPARTMENTS - County powers to purchase equipment for; UNITED STATES - County powers to expend federal revenue sharing funds; REVISED CODES OF MONTANA, 1947 - Sections 10-1031(3), 1103(3), 1203(12), 1222(1), 1234, 1237(1), 1238, 1244, 1245(2), 1300, 1305, 1310, 1315, 1320, 1322; 16-805, 1163, 1164, 2702, 4602, 4606, 4607; 28-601, 602, 603, 605; 47A-7-101, 203, 204; 71-210, 216, 221, 222, 706(a), 709, 714. 1972 MONTANA CONSTITUTION - Article 5, § 11(5); Article XI, §§ 4(2), 5 and 6. 37 OP. ATT'Y GEN. NOS. 25, 61, 68 and 89.

- HELD: 1. Unless a specific mode or manner of action is mandated by statute, counties may contract with individuals or private organizations, including non-profit service organizations, for the purchase of services or materials the counties are authorized by statute to provide their constituents if the contracts are reasonable and appropriate methods of furnishing services or materials. Counties may use federal revenue sharing funds to purchase any services or materials they could use county tax revenues to purchase.
2. Counties may not make gifts of federal revenue sharing funds or any other county funds to any individual or organization. Any county grant of money to a non-profit service organization must be pursuant to a contract wherein the organization agrees to furnish services or materials the county is empowered to furnish or purchase.
3. Counties which have enacted dog licensing requirements may contract with local humane societies pursuant to section 16-4607, R.C.M. 1947, for the impoundment and disposition of unlicensed dogs. In addition, counties may contract with local humane societies for kenneling and disposition of animals incidental to the sheriff's performance of his duties as humane officer under section 16-2702, R.C.M. 1947.
4. Counties have express authority under section 28-603, R.C.M. 1947, to purchase fire apparatus for volunteer, rural fire crews.
5. Under section 16-1163 counties may acquire already established museums or collections from private individuals or organizations by purchase, lease or loan and may contract with private organizations for the management and operation of an established county museum. In either case any relationship between a county and a non-profit organization must be a contractual one, the terms of which are left to the reasonable exercise of the discretion of county commissioners. Federal revenue sharing funds may be used in connection with these contracts.

6. Counties may contract with Big Brothers and Sisters organizations to furnish adult companionship, guidance and counseling to needy and troubled children.
7. Counties, jointly with the State Department of Social and Rehabilitation Services, may contract with local "4-C's" projects to provide coordination and support of child abuse prevention and treatment services.

17 January 1978

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Gentlemen:

You each have requested my opinion concerning county authority to give or grant federal revenue sharing funds to private, non-profit service organizations. Since each request raises similar issues, I have combined them for purposes of this opinion. Your questions are:

1. May a county give or grant federal revenue sharing moneys to private, non-profit service organizations, and if so under what circumstances?
2. If a county may grant federal revenue sharing moneys to private, non-profit service organizations, must the grant be accompanied by a contractual agreement wherein the organization agrees to provide specific services?

In addition to the foregoing general questions you have requested me to consider the following specific instances of potential funding by a county:

3. May a county give federal revenue sharing funds to a local humane society?

4. May a county use federal revenue sharing funds to purchase fire apparatus and equipment for rural volunteer fire departments?
5. Under what circumstances, if any, may a county give federal revenue sharing funds to a non-profit organization operating a museum open to county residents and the public?
6. May a county give federal revenue sharing funds to "Big Brothers and Sisters," a non-profit service organization which provides adult companionship and counseling for county youths, including youths referred to it by the welfare department, schools and the juvenile probation office?
7. May a county, in cooperation with the Montana Department of Social and Rehabilitation Services, grant money to a "4-C's" organization, a non-profit service organization which coordinates existing state and local governmental services for children, including services related to prevention and treatment of child abuse and neglect cases?

I

Your first question is answered in part by three recent Attorney General opinions. Those opinions are 37 OP. ATT'Y GEN. NOS. 25, 61 and 89.

Opinions 61 and 89 considered the permissible purposes for which federal revenue sharing funds may be expended. Opinion 61 concluded:

Federal revenue sharing funds and payments in lieu of taxes may be spent for any purpose for which local governments may spend or pledge general tax revenues.

As a general rule, federal revenue sharing funds may be used to pay for any services for which general tax revenues may be expended or pledged.

Opinion 25 considered whether a county may grant either federal revenue sharing or general fund moneys to a non-profit corporation operating a museum and art gallery. The

opinion held that the proposed expenditure would violate Article V, section 11(5) of the 1972 Montana Constitution, which prohibits appropriations "for religious, charitable, individual, educational or benevolent purposes" unless made to an organization "under the control of the state." Although Article V, section 11(5) pertains to legislative appropriations, it was applied by analogy to "subdivisions of the state," including counties. The conclusion reached in Opinion 25 is more directly supported by section 16-805, R.C.M. 1947, which applies to counties:

No county must ever give or loan its credit in aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association, or corporation ***.

Both Article V, section 11(5) and section 16-805 concern the gift or loan of moneys, involving no return consideration. The proposed expenditure considered in opinion 25 was a gift since the museum and art gallery was a private one.

Neither Article V, section 11(5), 1972 Montana Constitution, nor section 16-805 prohibit counties from appropriating or paying money to individuals or private organizations, profit or non-profit, on an exchange basis. Counties are expressly authorized "to make such contracts *** as may be necessary to the exercise of its powers." In the context of governmental powers, the word necessary means "reasonable and appropriate" or "reasonably well adopted to the accomplishment" of governmental duties or powers. 37 OP. ATT'Y GEN. NO. 89. Unless some specific mode or manner of execution is mandated by statute, counties may contract with individuals or private organizations, where reasonable and appropriate, for the purchase of services or materials they are authorized by statute to provide their constituents. Cf. Thompson v. Gallatin County, 120 Mont. 263, 270, 184 P.2d 998 (1947), "Whenever a power is conferred upon the board of county commissioners, but the mode in which the authority is to be exercised is not indicated, the board in its discretion may select any appropriate mode or course of procedure."

In several instances counties are expressly authorized to contract with non-profit organizations. For example, sections 10-1244 and 10-1245(2), R.C.M. 1947, authorize governmental units, including counties, to provide funds, materials, facilities, and services to district youth guidance homes, operated by non-profit corporations and which provide rehabilitation services to delinquent youths

and youths in need of supervision. Express provision has been made authorizing contracts with humane societies and the purchase of fire apparatus for volunteer departments. *Infra.* However, counties are not limited to contracting for services in those instances where statutes expressly authorize such contracts. A county may, unless otherwise limited by statute to some other particular mode and manner of performance, utilize contracts in discharging county powers or duties.

A determination concerning the authority of a county to enter into a particular contract typically involves two inquiries. First, does the county have the power to provide the service which the non-profit organization will obligate itself to perform? Second, is a contract with a non-profit organization a reasonable and appropriate means of providing that service?

The second inquiry will rarely be troublesome. The choice of a particular mode or manner to accomplish any of its statutory powers or duties is discretionary with the county board of commissioners, subject only to the requirement that it be reasonable. Discretionary decisions of county boards are reviewable only on grounds of fraud or arbitrary and manifest abuse of discretion. State ex rel. Bowler v. Board of County Commissioners of Daniels County, 106 Mont. 251, 258, 76 P.2d 648 (1938). The general rule concerning county contracts is set out in Arnold v. Custer County, 83 Mont. 130, 146-147, 269 P. 396 (1928), "*** [A] county governing board may contract to have work done that is necessary to its care and management of the business of the county *** if it is not made by law the duty of some county official to do such work." It will be a rare case in which the use of a contract for services will be held to be an abuse of discretion.

Therefore, the primary inquiry is whether the county has the statutory power to provide the service in question.

Counties with self-government powers have all powers which are not prohibited by the constitution, the statutes of Montana, or their self-government charters. Article XI, section 6, 1972 Montana Constitution; section 47A-7-101, R.C.M. 1947; and 37 OP. ATT'Y GEN. NO. 68. Sections 47A-7-203 and 47A-7-204, R.C.M. 1947, place specific limitations upon self-government powers, providing, in general, that local governments which adopt self-government charters are subject to all state laws which concern (a) the election or

establishment of local governments; (b) eminent domain and zoning requirements; (c) regulation of budget, financing or borrowing procedures and powers; (d) specific and mandatory duties of local governments or their officers; and (e) areas which have been affirmatively subjected to state or administrative regulation where the exercise of local power would be inconsistent with such regulation. See generally 37 OP. ATT'Y GEN. NO. 68. Generally, the power to provide social services is not denied.

Counties with general government powers have only those powers which are expressly granted by statute or incidental and necessary to expressly granted powers. Arnold v. Custer County, supra. In some cases the power to provide a particular service may be express. In others, it may be implied. If provision of the particular service is reasonably well adopted to the accomplishment of an express, statutory power granted counties, then counties have implied power to provide the service. See 37 OP. ATT'Y GEN. NO. 89; State ex rel. Bowler, supra, 106 Mont. at 257-258.

II

In answer to your second question, no money can be paid non-profit service organizations unless accompanied by the organization's agreement to furnish services on behalf of or for the county. In absence of such agreement, the payment would lack reciprocal consideration and amount to a gift.

III

Questions 3 through 7 concern several specific, proposed expenditures. Both Lewis and Clark County and Cascade County have general government powers and the permissibility of each of the proposed expenditures must therefore be determined by studying the statutory powers expressly given counties and boards of county commissioners.

The proposed expenditures for Big Brothers and Sisters and for the "4-C's" project involve most difficult statutory analysis. Both proposed expenditures are for children's social services, and there is simply no express statutory authority for counties, independently, to generally provide children or adults with social services. However, the conclusion that county power to provide children's counseling and protective service is implied from various duties the counties have concerning troubled and abused children is a compelling one. The need for extensive analysis in this opinion, as well as in other recent Attorney General

opinions rendered with regard to powers of local governments, is created by the ambiguity and incompleteness of current Montana statutes concerning powers of local governments. The deficiencies of the present code illustrate the need for a simplified and comprehensive new local governmental code, particularly in view of the new constitutional provisions on local government made a part of the 1972 Montana Constitution, Article XI. The 1972 Constitution departs from the historical, restrictive approach to powers of local governments, adopting a liberal approach. That approach requires liberal construction of the powers of incorporated cities, towns and counties, Article XI, section 4(2), 1972 Montana Constitution, and permits local government to adopt self-government charters, Article XI, sections 5 and 6, 1972 Montana Constitution. Most current statutory provisions were enacted prior to the new Montana Constitution during a strict construction era. While I express no opinion concerning the merits of the proposed, comprehensive local government code introduced in the Forty-fifth Legislature, or any other proposals, House Bill 122 (1977), if it had been enacted, would have clarified and simplified local government powers concerning social services. That Bill would have expressly authorized local governments to provide "human services," including child care, youth, senior citizen, social and rehabilitative services. (Proposed section 47A-6-103(5), R.C.M. 1947.) A comprehensive and simplified new local government code would erase the current ambiguity of local government statutes and alleviate the need for frequent resort to interpretive decisions of the Attorney General and the courts.

Humane Society.

Chapter 46 of Title 16, R.C.M. 1947, authorizes counties to license dogs, to provide impoundment and to dispose of unlicensed dogs found running at large. Section 16-4607, R.C.M. 1947, grants boards of county commissioners express authority to contract with local humane societies:

The board of county commissioners may appoint a county pound master and fix the compensation for his services under this act, and otherwise enforce the provisions of this act, or the board of county commissioners may enter into a contract with any humane society or other person, organization or association which will undertake to carry out the provisions of this act regarding the taking up, impounding and killing of dogs, and which shall

give a proper bond in whatever amount may be fixed by the board of county commissioners for the faithful performance of the contract. The board of county commissioners may also enter into contracts with municipal corporations for the use by the county or by the municipal corporation of the impounding facilities of the other. (Emphasis added.)

Chapter 46, Title 16 is generally a dog licensing act which is only applicable in those counties which have affirmatively enacted dog licensing requirements. Section 16-4602, R.C.M. 1947, provides that a county board of commissioners "may provide for the annual issuance of serially numbered dog license tags ***." Section 16-4606, R.C.M. 1947, requires county commissioners to provide for impoundment of unlicensed dogs running at large in those counties "where this act applies;" and section 16-4606, R.C.M. 1947, permits the seizure and impoundment of unlicensed dogs found running at large. Since chapter 46 does not designate the particular counties to which the act applies and uses the word "may" in section 16-4602, these provisions of chapter 46 which concern dog licensing, impoundment and disposition of unlicensed dogs apply only to those counties which, in the discretion of the county commissioners, enact dog licensing requirements. Those counties which have adopted dog licensing requirements may contract with humane societies under section 16-4607.

An additional source of county authority to contract with a humane society may be found in section 16-2702, R.C.M. 1947 (subparagraph 4), which imposes a duty upon the sheriff to "perform duties of humane officer within the county with reference to the protection of dumb animals." If kenneling or disposition of animals is necessary in conjunction with performance of those duties, the county may contract with a local humane society to provide those services.

FIRE APPARATUS

Lewis and Clark County has several volunteer fire departments which serve rural areas. These departments have not been established under the provisions of chapter 20, Title 11, R.C.M. 1947, which provides for organization of fire companies in unincorporated villages and towns and the creation of fire protection districts. However, rural volunteer fire departments need not be organized under chapter 20, Title 11, to be eligible for grants of funds or

equipment. Separate, express provision has been made for rural volunteer departments in section 28-601 through 28-605, R.C.M. 1947. Section 28-602, R.C.M. 1947, provides that a county governing body may provide for the organization of volunteer, rural fire crews for the purpose of protecting range, farm and forest lands within the county. Section 28-603, R.C.M. 1947, expressly authorizes county boards to appropriate funds to purchase fire equipment, providing in relevant part:

The county governing body is authorized to appropriate funds for the purchase, care, and maintenance of firefighting equipment or for the payment of wages in prevention, detection, and suppression of fires, or if the general fund is budgeted to the full limit, the county governing body may at any time fixed by law for levy and assessment of taxes levy a tax at such rate as in their judgment will be necessary to raise such needed sum not to exceed \$15,000.

The \$15,000 limitation only applies where the general fund is already budgeted to the full limit and a special tax levy is necessary to raise funds for the described purposes. The proposed expenditure is a permissible one.

MUSEUM

County powers concerning museums are set forth in sections 16-1163 and 16-1164, R.C.M. 1947. Section 16-1163 provides:

The board of county commissioners of each county of the state, in addition to all other powers now conferred upon them, shall have authority to establish or acquire museums, and collections of exhibits, and articles, matters and things to be included in or added to such museums and collections. The word "museums" for the purposes of this act shall mean buildings, or parts of buildings, of which a principal purpose is the exhibition of objects of historical interest or of interest in one or more of the arts and sciences.

The use of the words "establish or acquire" preclude county subsidy of private museums. However, it neither prohibits acquisition of a museum or collection from a private organization nor does it preclude counties from contracting with private organizations for services in connection with establishment or management of county museums. The words

"acquire" and "establish" have commonly understood meanings. "Acquire" means to get or gain possession of. "Establish" means to set up or create. Both words are broad enough to comprehend not only outright purchases but leases, rentals, donations and loans. It is a common practice of museums, for example, to "acquire" exhibits, collections and individual works of art on loan from donors who do not wish to relinquish ownership but at the same time desire to share their art works with the public. In construing statutes, words must be given their plain and ordinary meanings, unless the context makes it apparent that a different meaning was intended, State ex rel. Daly v. Montana Kennel Club, 144 Mont. 377, 381, 396 P.2d 605 (1967); and in case of section 16-1163, R.C.M. 1947, it is not apparent that the Legislature intended to use the words "acquire" and "establish" in any other manner than their broadest and commonly understood sense. Since the museum provisions do not mandate a particular mode or method of acquisition or establishment, county commissioners have broad discretion in determining the manner of proceeding. County boards may acquire already established museums or collections not only by outright purchase but by lease or loan involving private organizations. Similarly, once a museum has been established, a county may contract with a private organization for its management and operation. In either case the relationship between a county and a private organization must be a contractual one, the terms of which are left to the reasonable discretion of the county commissioners and through which the county provides a museum or collection for its constituents. Federal revenue sharing funds may be used in connection with these contracts.

BIG BROTHERS AND SISTERS

Lewis and Clark County has submitted the question concerning county authority to grant federal revenue sharing funds to local Big Brothers and Sisters organizations. In conjunction with its request, the county has furnished the following information.

Big Brothers and Sisters is a non-profit, service organization which provides "adult friends" to youths in need of adult companionship and guidance. At present, approximately one hundred youths between the ages of five and sixteen in Lewis and Clark County are matched with adult volunteers; an additional one hundred youths are on a waiting list. Youths are referred to the program from the county welfare department, schools, and the juvenile probation office. It is the opinion of the county commissioners that the program has

successfully interrupted and reversed anti-social development patterns of some youths and therefore reduced the incidence of juvenile offenses. In addition to advancing the general welfare of county youths in the program, the commissioners are of the opinion that the program has prevented some youths from developing into future youth offenders. This has served to reduce expense the county would otherwise have incurred for maintenance of youths if adjudicated in need of supervision, delinquent, or dependent. Maintenance of delinquent youths and youths in need of supervision in structured programs can cost the county up to \$1,200 per individual child, per month.

The services provided by Big Brothers and Sisters fall generally within the category of counseling and guidance of needy and troubled children. Provision for such services is reasonably related to the discharge of several, express statutory duties and powers granted counties with regard to the welfare and protection of children.

The welfare and protection of children is the general concern of the State, primarily through the Department of Social and Rehabilitation Services and the Department of Institutions, and the counties, which share responsibilities for child welfare. Counties' duties and powers with respect to child welfare and protection are found principally in chapter 12 of Title 10, R.C.M. 1947, the "Montana Youth Court Act;" chapter 13 of Title 10, R.C.M. 1947, pertaining to the protection of abused, neglected and dependent children; and chapters 2 and 7 of Title 71, R.C.M. 1947, as it pertains to provision for child welfare services.

The Montana Youth Court Act directly burdens counties with financial responsibility for the care and rehabilitation of youth offenders. Youth offenders are classified as "delinquent youths," who have been adjudged guilty of committing offenses which if committed by adults would constitute crimes or who have violated probation, section 10-1203(12), R.C.M. 1947, and "youths in need of supervision," who have been adjudged guilty of an offense which if committed by adults would not constitute a crime or who are incorrigible or habitually truant, section 10-1103(13), R.C.M. 1947. Youth offenders are subject to a number of disposition alternatives, including probation, placement in a foster home or district youth guidance home, and special care, treatment or evaluation ordered by the Youth Court. See section 10-1222(1), R.C.M. 1947. Counties are burdened with the cost of paying for youth probation services, section 10-1234, R.C.M. 1947; the cost of maintaining shelter, care

and detention facilities, section 10-1237(1), R.C.M. 1947; and the cost of supporting any youth offender committed to the custody of any private or public agency, section 10-1238, R.C.M. 1947. In discharging its financial duties, the county is not limited to "paying the bills." As stated in Arnold v. Custer County, supra, 83 Mont. at 146 (quoting 15 C.J., p. 457);

*** [A county board] must necessarily possess an authority commensurate with its public trusts and duties. Therefore, it possesses inherent authority to perform acts to preserve or benefit the corporate property of the county entrusted it.

Prevention of delinquency and youth offenses is as much a part of youth law enforcement as it pertains to youth, as the detection, supervision and rehabilitation of youth offenders, and is reasonably related to the discharge of the counties' financial duties.

Counties' responsibilities for the care and treatment for abused, neglected and dependent children are similar to their responsibilities under the Youth Court Act. Counties must pay one-half the cost of the support of dependent and neglected children sheltered in foster homes or private institutions. Section 10-1320, R.C.M. 1947. Pursuant to sections 71-216, 71-221 and 71-714, R.C.M. 1947, counties, through county welfare boards, also administer local child welfare services, which are defined by section 71-706(a), R.C.M. 1947, as:

Child welfare services mean: The establishing, extending and strengthening of child welfare services *** for the protection and care of homeless, dependent and neglected children and children in danger of becoming delinquent.

These provisions are important in the present context with respect to "dependent" youths, who are defined as including those youths who have no proper guidance to provide for their necessary physical, moral and emotional well-being, section 10-1031(3), R.C.M. 1947. Adult counseling and guidance in moral and emotional matters may fill in for home deficiencies which in some cases might otherwise require formal interventions under the child neglect and dependency provisions of chapter 13, Title 10, R.C.M. 1947, and the placement of youths in foster home facilities at county expense.

I therefore conclude that counties have implied powers to provide counseling and guidance services for children and to contract with Big Brothers and Sisters to furnish such services.

4-C's

The question concerning funding of a local "4-C's" project was also submitted by Lewis and Clark County. The County and the Department of Social and Rehabilitation Services (SRS) have furnished the following information.

"4-C's" is a non-profit organization whose principal function is the coordination of existing state and local services for children. "4-C's" is also involved in the evaluation and development of services for children; the prevention and treatment of child abuse and neglect cases through educational and training services and supportive assistance for child abuse treatment programs; the providing of training programs in child welfare service areas; and the detection of disabilities among children. Most "4-C's" activities are organizational in nature, primarily involving community coordination of local and state child service providers.

Several counties, including Lewis and Clark County, plan to grant financial support to the local "4-C's" projects. County funding will be a small portion of a larger grant made to "4-C's" projects by SRS and utilizing federal funds. SRS and each involved county will jointly purchase child welfare services from local "4-C's" projects; the purchase will involve written agreements. In Lewis and Clark County, county funds are to be used exclusively for child abuse and neglect services. Approximately one-half of the funds are earmarked for purposes of organizing and assisting a "Parents Anonymous" program, a self-help group for parents who have abused or neglected their children. The remaining funds are to be used for other informational and organization services for the prevention, detection and treatment of child abuse and neglect.

The proposed expenditure is a permissible one. As noted with regard to counseling and guidance services provided children by Big Brothers and Sisters, counties are burdened with much of the financial responsibility for the care of children found to be dependent or neglected. E.g., section 10-1320, R.C.M. 1947. The county attorney is responsible for prosecution of petitions alleging child abuse, neglect or dependency, sections 10-1305 and 10-1310, R.C.M. 1947,

and prosecuting criminal actions against abusive parents, section 10-1322, R.C.M. 1947. The county welfare department shares responsibility with SRS for providing protective services for abused, neglected and dependent children. Section 10-1315, R.C.M. 1947. Although chapter 13 of Title 10, R.C.M. 1947, dealing with child neglect and abuse, grants county officials and SRS express authority to officially intervene in actual child abuse cases, both county and state powers and responsibilities concerning child abuse are much broader than the formal actions authorized in that chapter. Section 10-1300, R.C.M. 1947, declares the official policy of the State concerning children in broad terms.

It is hereby declared to be the policy of the state of Montana:

(1) to ensure that all youth are afforded an adequate physical and emotional environment to promote normal development;

(2) to compel in proper cases the parent or guardian of a youth to perform the moral and legal duty owed to the youth;

(3) to achieve these purposes in a family environment whenever possible; and

(4) to preserve the unity and welfare of the family whenever possible.

Prevention and treatment of child abuse and neglect outside the confines of formal child abuse and neglect proceedings are reasonably adapted to serve these purposes.

The joint responsibility for child welfare shared by counties with SRS under chapter 13 of Title 10 is carried over into general child welfare provisions of chapters 2 and 7 of Title 71, R.C.M. 1947. SRS is obligated to establish, strengthen and supervise child welfare services. Sections 71-210 and 71-709, R.C.M. 1947. County boards of welfare administer local delivery of child welfare services and social services programs. Sections 71-216, 71-221 and 71-714, R.C.M. 1947. In addition to the required county expenditure for general relief and administrative costs of county welfare departments, section 71-222, R.C.M. 1947, expressly authorizes counties to pay their "proportionate share of any other public assistance activity that may be carried on jointly by the State and the county." The term "public assistance" includes "any type of monetary or other assistance furnished under this title (Title 71) to a person by a state or county agency ***, " section 71-201.1(2), R.C.M. 1947, a definition broad enough to include social services.

It is therefore my opinion that the county may, in cooperation with SRS, contract for the proposed services to be furnished by the "4-C's".

THEREFORE, IT IS MY OPINION:

1. Unless a specific mode or manner of action is mandated by statute, counties may contract with individuals or private organizations, including non-profit service organizations, for the purchase of services or materials the counties are authorized by statute to provide their constituents if the contracts are reasonable and appropriate methods of furnishing services or materials. Counties may use federal revenue sharing funds to purchase any services or materials they could use county tax revenues to purchase.
2. Counties may not make gifts of federal revenue sharing funds or any other county funds to any individual or organization. Any county grant of money to a non-profit service organization must be pursuant to a contract wherein the organization agrees to furnish services or materials the county is empowered to furnish or purchase.
3. Counties which have enacted dog licensing requirements may contract with local humane societies pursuant to section 16-4607, R.C.M. 1947, for the impoundment and disposition of unlicensed dogs. In addition, counties may contract with local humane societies for kenneling and disposition of animals incidental to the sheriff's performance of his duties as humane officer under section 16-2702, R.C.M. 1947.
4. Counties have express authority under section 28-603, R.C.M. 1947, to purchase fire apparatus for volunteer, rural fire crews.
5. Under section 16-1163 counties may acquire already established museums or collections from private individuals or organizations by purchase, lease or loan and may contract with private organizations for the management and operation of an established county museum. In either case any relationship between a county and a non-profit organization must be a contractual one, the terms of which are

left to the reasonable exercise of the discretion of county commissioners. Federal revenue sharing funds may be used in connection with these contracts.

6. Counties may contract with Big Brothers and Sisters organizations to furnish adult companionship, guidance and counseling to needy and troubled children.
7. Counties, jointly with the State Department of Social and Rehabilitation Services, may contract with local "4-C's" projects to provide coordination and support of child abuse prevention and treatment services.

Very truly yours,

MIKE GREELY
Attorney General