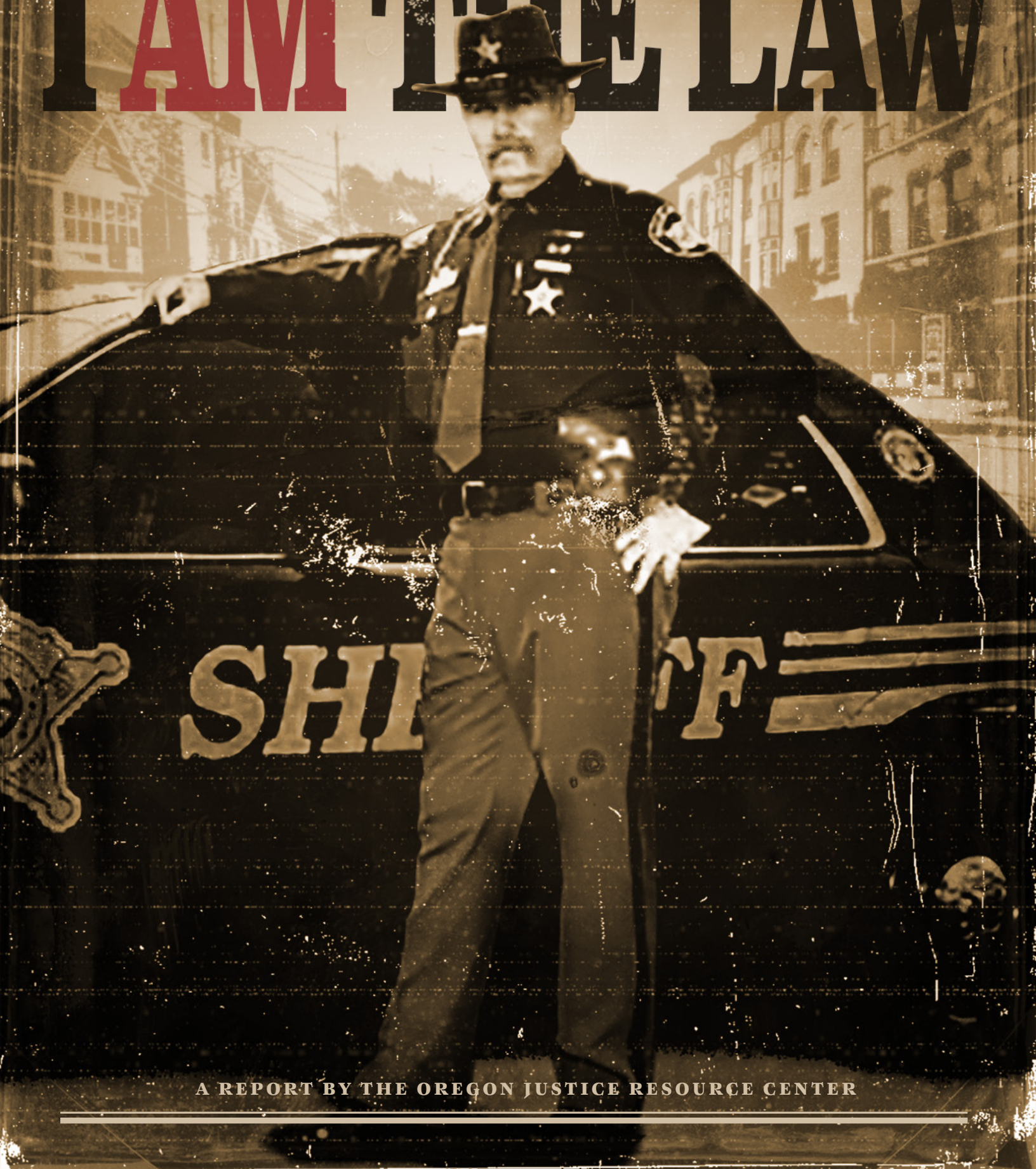


The Rise of Oregon's Constitutional Sheriffs

I AM THE LAW



A REPORT BY THE OREGON JUSTICE RESOURCE CENTER

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LAYOUT & GRAPHICS
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THE OREGON JUSTICE RESOURCE CENTER (OJRC) is a 501(c)(3) nonprofit founded in Portland, Oregon, in 2011. We work to promote civil rights and improve legal representation for communities that have often been underserved in the past: people living in poverty and people of color among them. Our clients are currently and formerly incarcerated Oregonians. We work in partnership with other, like-minded organizations to maximize our reach to serve underrepresented populations, train public interest lawyers, and educate our community on civil rights and civil liberties concerns. We are a public interest law firm that uses integrative advocacy to achieve our goals. This strategy includes focused direct legal services, public awareness campaigns, strategic partnerships, and coordinating our legal and advocacy areas to positively impact outcomes in favor of ending mass incarceration.



INTRODUCTION

THE SHERIFF'S BADGE often elicits the caricature of a stoic Old Western figure tasked with serving as a protector for westward White settlers against organized lawlessness, looters, and bands of vigilantes. For Black and Indigenous communities, this figure presents a painful reminder of the early versions of law enforcement that upheld institutions of slavery and Jim Crow, participated in mass genocide and land-stealing, and encouraged acts of racial terror and White supremacy. In either vision, the sheriff played a powerful and significant role as one of the only law enforcement entities present during the colonization of the American West. Seemingly a relic of the distant past, the sheriff's office is alive and well today. Although their responsibilities have changed, present-day sheriffs continue to perpetuate the same acts and value systems associated with their historical mythos.

Sheriffs are the top local law enforcement officer in their county's jurisdiction, tasked with upholding their state's statutes and constitution and the U.S. Constitution. Their authority supersedes municipal police officers, city police chiefs, county correctional officers, and county deputies in their jurisdiction. The power and mandate that sheriffs and their offices hold within their county are vast, ranging from dispatching traffic patrols to conducting property auctions. Uniquely, as the only form of law enforcement elected in any giv-

en state, they can be held directly accountable to the voters within their county. However, as many local elections in 2020-2022 have demonstrated, these positions can be subject to abuse, scandal, and constitutional violations when ignored by the electorate and co-opted by extremist candidates. Consequently, there are sheriffs within the state of Oregon that have taken their broad role in their county and pushed it to alarming extremes by aligning with the constitutional sheriff movement and ruling under the guise of county supremacy.

The constitutional sheriff movement is a false doctrine that claims sheriffs are the “highest constitutional authority in a county,” exceeding that of any state or federal elected leaders, judges, or law enforcement.¹ Organizations that promote and support this movement go so far as to claim that “the vertical separation of powers in the Constitution makes it clear that the power of the sheriff even supersedes the powers of the President.”² As a result, those who identify as constitutional sheriffs believe they hold plenary power to defy or disregard any laws passed by state or federal governments that they believe to be unconstitutional.

As a movement forged in far-right extremist, white nationalist, antisemitic, and anti-government circles,³ beliefs that are core to constitutional sheriffs include: preserving unfettered Second Amendment rights, prioritizing private property rights over public land management, and promoting xenophobic rhetoric and hardline enforcement of anti-immigration laws.⁴ Combining these perspectives with the notion that one is the highest law enforcement official in the land can lead to serious legal, physical, or psychological consequences for individuals residing in, working in, or passing through a constitutional sheriff’s county. Accordingly, there are many examples of constitutional sheriffs who have engaged in such activity with impunity for most—if not all—of their tenure, ranging from the East Coast to Oregon.

While many people are familiar with the national headlines about former Sheriff Joseph Arpaio of Maricopa County, Arizona, who used his office to conduct egregious immigration-related operations against Maricopa County residents, a sheriff who received less national attention for similar actions was former Sheriff Glenn Palmer of Grant County, Oregon. Palmer notoriously ran his office with a

warped interpretation of how the state and federal constitutions empowered him beyond the already far-reaching capabilities of an Oregon sheriff.⁵ The belief that he held unlimited constitutional authority over his jurisdiction led Palmer to deputize upwards of 69 civilians into his personal watchdog patrol, support armed right-wing militants behind sovereign citizen movements,⁶ unilaterally deputize his brother (who was a county commissioner at the time), pay another deputy more than \$100,000 in salary while under a criminal investigation,⁷ and use deputies to harass federal forestry workers operating on public lands.⁸ The infamous event that would come to define Palmer’s tenure—and lead to his eventual ousting in 2020—was his support of the Bundy family’s takeover of the Malheur National Wildlife Refuge in 2016.⁹

Although Palmer no longer serves as a sheriff in Oregon, some of the state’s current 36 sheriffs have begun a slippery descent into the constitutional sheriff identity while others have already done so, quietly, since the Palmer era. As white nationalist values and government skepticism have both increased and converged during the pandemic, these sheriffs have been enabled and encouraged by extremist groups to lean into these views in a short span of time. The result has been an emboldening of some sheriffs to participate in acts of defiance against state and federal governments, effectively engaging in a form of county supremacy. All of this has unfolded due to the electorate not paying attention or being informed, at best, or holding indifference or support toward these actions, at worst. While the self-proclaimed powers of these sheriffs are unconstitutional and unfounded, when left unchecked, these officials could fragment the state by creating hand-tailored versions of law, order, and oppression within their respective counties. ■

HISTORY AND BACKGROUND OF SHERIFFS

FROM EUROPE TO THE UNITED STATES

TO UNDERSTAND how the constitutional sheriff movement came to be in the United States, one must first understand the historical context behind how the sheriff’s office was created. The position of sheriff originated in the era of feudal England, where the lands of kings were divided up into geographic areas that were protected by a guardian that serfs directly elected.¹⁰ The organized geographic areas were known as “shires,” and the guardian that a shire’s serfs elected as their informal leader was called a “reeve.”¹¹ With time, these shire-reeves—or guardians of the shire—became liaisons, mediators, and formal representatives in the government structure that existed between kings and their shires; and the words shire and reeve would eventually combine to form the present-day word of “sheriff.”¹²

When feudal England expanded into the British Empire, the concept of the sheriff was transported across the seas to all its various colonies, including the American Colonies. Leading up to this point, English sheriffs held many primary duties beyond guardianship and keeping the peace, such as collecting taxes, liaising government information to their constituency, maintaining jails, arresting fugitives, developing local lists of wanted criminals, and serving orders and writs that came from the King’s Court.¹³ When

the position made its way to the American Colonies many of the sheriff’s previous duties remained, while its social and judicial responsibilities became more ceremonial in nature. Still, the position remained broad in scope and power at the county level. As a position that was rooted in local authority, the U.S. Constitution’s Framers abstained from including the sheriff or its office in the document’s text. Rather, it was left to states and local governments to create and oversee such a unique position.



SHERIFF BRIAN WOLFE
MALHEUR COUNTY
SERVING SINCE 2011

“As elected sheriff of Malheur County I believe that; it’s not the governments job to protect our health. It’s the governments job to protect our Rights, Freedoms, and Liberties.”

– FROM 2021 PANDEMIC LETTER



PRIOR TO HOLDING public office, Sheriff Wolfe worked as a school resource officer through Nyssa PD, a detective for Ontario PD, and an undersheriff for Malheur County. Wolfe expressed extreme opposition against Gov. Brown’s pandemic executive orders stating that they did not fall within the “superior mandates of the Constitution” and that Malheur County would “resist future unconstitutional mandates.” Wolfe has since joined other Oregon sheriffs officially listed in the lawsuit brought forth against Gov. Brown and AG Rosenblum and their implementation of Ballot Measure 114. Wolfe supports his involvement by emphasizing 78% of Malheur County voters opposed the measure and expressing his belief that the new law will “hinder law abiding citizens’ ability to protect themselves.”

The first sheriff elected in the United States by a county (still called a shire at the time) was in 1652 in Virginia.¹⁴ By 1776, Pennsylvania and New Jersey had mentioned the office of sheriff in their state constitutions and by 1802, Ohio had codified the election of the sheriff in their state constitution.¹⁵ Soon after, many other states followed suit with the requirement of having county voters elect their sheriff. As of today, about 98% of all sheriffs in America are elected by their county voters, with the remaining 2% existing in counties and states where the position can be appointed.¹⁶

By the 1800s, sheriffs made their way through the American West alongside white settler-colonists. Their primary responsibilities were collecting taxes and keeping the peace. Sheriffs were seen as idols of law and order as the earliest forms of American organized crime began to pop up—bank hold-ups, prostitution, burglary of pioneer homes, and stagecoach robberies were just some of the many crimes that kept sheriffs and other Western law enforcement occupied.¹⁷ Beyond protecting White settlers from each other, sheriffs also participated in the genocide of Native and Mexican residents, who were perceived as threats to the White settler-colonists and the ideals of Manifest Destiny.¹⁸

Modern-day sheriffs have not changed much from their colonial and early-state iterations. They are still the chief law enforcement officer in their county and maintain full police jurisdiction across all municipalities in their county in addition to unincorporated areas.¹⁹ Beyond general law enforcement and correctional duties, modern-day sheriffs are also responsible for the service of legal processes and orders by county courts, maintaining security within said courts, providing search and rescue services for lost individuals, and assisting with mental health crisis responses within the community.²⁰

ORIGINS

OF THE

OREGON SHERIFF

PRIOR TO Oregon’s statehood, the Organic Laws of Oregon were adopted at the Champeog Meetings, which created the European-American Provisional Government of Oregon and the following territory-wide elected positions: Supreme Judge, Court Clerk and Recorder, Treasurer, and Sheriff.²¹ During the 1843 meetings, Joseph Lafayette Meek became Oregon’s first elected sheriff. Sheriff Meek’s jurisdiction was the entirety of the Oregon Territory where his duties included conserving the peace, enforcing liquor laws, and collecting taxes.²² A few years after his election, Meek’s position of territory-wide sheriff dissolved as the Oregon Territory was formally divided into four administrative districts called Champeog, Clackamas, Twality, and Yamhill, each with its own district sheriff and other local government officials.²³ Throughout the next 70 years, after the Oregon Constitution was adopted and Oregon was granted statehood, all 36 present-day counties were gradually established out of the four original districts, each with its own county government, jail/jail district, and sheriff’s office.

★

OREGON’S CONSTITUTION MENTIONED THE POSITION OF SHERIFF ONLY TWICE AT THE TIME OF ITS CREATION AND RATIFICATION.

★

The Oregon Constitution, which was created and ratified in 1857, mentions the position of sheriff only twice.²⁴ Once to establish the position as a required elected office in each county, and a second time to mandate the position as being “elected in each county for the term of two years, who shall be the ministerial officer of the circuit, and county courts, and shall perform such other duties as may be prescribed by law.”²⁵ By 2002, the Oregon Constitution had been amended to mention the position of sheriff twice more; once related to sheriffs needing to possess qualifications that can be prescribed by the legislature, and another related to a sheriff’s office being legally defined as an “emergency services building.”²⁶ Beyond these sections, the Oregon Constitution does not mention the position of sheriff, nor does it grant the sheriff’s office any extraordinary legal or constitutional authority. That being said, the Oregon Revised Statutes, which are the codified laws of the state of Oregon enacted by the State Legislature, provide the foundation from which Oregon sheriffs draw broad and significant power in their jurisdictions.

RESPONSIBILITIES

OF

OREGON SHERIFFS

IN TOTAL, there are at least 68 state statutes that outline all the provisions and powers of a sheriff, from which there are a handful of key statutes that are essential to understanding the main responsibilities and capabilities of all Oregon sheriffs. To begin, Oregon Revised Statutes (ORS) Chapter 206 contains 14 sections re-

lated to the general duties of sheriffs. Highlights include the ability to: arrest and commit people who break or attempt to break the peace, defend the county against those who riot or endanger the public, execute legal process and orders from the court, execute all warrants delivered to the sheriff's office,²⁷ create law enforcement contracts with local governments,²⁸ and take personal property by reasonable force if needed for a legal proceeding.²⁹

ORS 206.015 also lays out that in order to be eligible to run or be appointed as sheriff an individual must be 21 years of age and either have at least four years of full-time law enforcement officer experience or two years of full-time law enforcement officer experience combined with two years of post-high school education.³⁰ A candidate or appointee also cannot be convicted of any felonies or crimes preventing certification of a police officer under ORS 181A.335 to 181A.689.³¹ It should be noted that if an individual is not a certified law enforcement officer by the Department of Public Safety Standards and Training by the time they are elected or appointed to the position of sheriff, they must obtain state certification no later than a year after taking office;³² this could be the case if a candidate previously served in law enforcement, but retired or left the career early prior to running for sheriff.

In addition to law enforcement services and executing legal process, the sheriff has additional key responsibilities that their office is required to oversee. Unless being assigned to public works projects or a contract for private employment, ORS 169.320 mandates that every county sheriff is assigned custody and control of all legally committed or confined persons in the sheriff's county correctional facility (i.e., jail)³³ and they must uphold the standards set out in ORS 169.076 for each correctional facility.³⁴ These standards include

maintaining facility security, policies for adult in custody (AIC) resources and services, facility-wide emergency plans, the prohibition of physical punishment, healthcare-related policies and services, AIC rights to hygiene, and more.³⁵ The statutory standards set in ORS 169.076 work in tandem with the Oregon State Sheriffs' Association's Jail Standards which were established as a "set of completely voluntary best practices that were designed to raise the bar for how Oregon jails are operated and create consistency in the operation of all county jails."³⁶

Moreover, ORS 404.110 designates sheriffs as responsible for search and rescue activities for missing persons within their county, unless delegated to a separate qualified entity.³⁷ Such searches can range from when an individual goes missing from their homes to rescues that involve individuals who are lost in the wilderness. To support these search and rescue efforts, sheriffs may recruit their deputies, volunteer search and rescue groups, volunteer deputy reserve personnel, or their mounted posses that consist of volunteer citizens on horseback.³⁸

Lastly, ORS Chapter 18.750 to 18.760 mandate a sheriff's responsibility to auction off real and personal property that has been foreclosed on. When an individual can no longer make payments on a property that they owe for, that property (and other items owned by the debtor) can be repossessed. Should repossession occur and the individual must turn over property, a sheriff's sale can occur as the final step of the foreclosure process as a way for a lender to recoup remaining debts.³⁹ These auctions, which are referred to as "sheriff sales", are legally required to be posted publicly by the sheriff so that anyone in the community interested in bidding for the properties has an opportunity to do so.⁴⁰ They are typically held either at the county courthouse or at the sheriff's office.

One problematic statute that should be pointed out, which will be further discussed in the constitutional sheriff section, is ORS 206.050 which allows a sheriff who encounters or expects resistance during the execution or service of legal matters or process to command as many adult inhabitants of the county that the sheriff believes proper and necessary to assist in overcoming the “resistance.”⁴¹ These civilian patrols, also known as posses, do not require any formal training or background screenings⁴² and can be deputized for however long the sheriff believes they need to employ their services to deter any resistance or hostility. It is ORS 206.050 that allowed Grant County’s Sheriff Palmer to deputize friends and allies to then harass and monitor federal forest staff and other individuals that Palmer opposed.

These statutes are just a few of the many laws in Oregon that set the guidelines and parameters for a sheriff’s powers and responsibilities; however, none of these give sheriffs any executive authority that supersedes Oregon laws, or the state and federal constitutions. That being said, the constitutional sheriff movement has not been dissuaded by this reality. Instead, they have created their own false reality to operate in, one that can appear to be within their authority and seems beneficial to the community, but actually runs counter to democratic institutions such as separation of powers, due process, and the preservation of civil rights.



SHERIFF CODY BOWEN

UNION COUNTY

SERVING SINCE 2021

“To the people who chime in with me picking and choosing which laws I want to enforce or not enforce, hear this... When it comes to our constitutional rights, I’ll fight to the death to defend them. No matter what crazy law comes out of Salem!”

– FROM 2022 MEASURE 114 LETTER



SHERIFF BOWEN BEGAN working as a reserve deputy with the Union County Sheriff’s Office in 2009 before being offered a full-time position two years later. Within his time as a deputy, he has served as a D.A.R.E. instructor and a school resource officer. Though relatively new to the sheriff role, Bowen has been active in espousing constitutional sheriff rhetoric in response to recent events. In his pandemic letter, Bowen paints Gov. Brown as a heavy-handed dictator who bullies rural counties and their residents. Bowen has also been interviewed by former Sheriff Richard Mack for CSPOA-related propaganda.

THE CONSTITUTIONAL SHERIFF MOVEMENT

TO UNDERSTAND the origins of the constitutional sheriff movement, one must look no further than the history of *posse comitatus*, which is Latin for “force of the county.”⁴³ This concept was created in medieval England around the same time the office of the sheriff was established. *Posse comitatus* originally referred to a band of citizens coming together with law enforcement officials to address an emergency that involved disturbances in the peace or threats from hostile forces.⁴⁴

Eventually, the ability for sheriffs to call together a *posse comitatus* was set into law with the Sheriffs Act of 1887 (United Kingdom). The Sheriffs Act of 1887 reads, “Every person in a county shall be ready and appareled at the command of the sheriff and at the cry of the country to arrest a felon whether within a franchise or without[.]”⁴⁵ Those who refused to comply with *possee comitatus* were subject to being fined.⁴⁶ While some of the Act’s provisions were eventually repealed or dialed back,⁴⁷ the concept of the *posse comitatus* was brought to the United States alongside the office of the sheriff. Consequently, in the United States, *posse comitatus* became a vessel for self-governance, local resistance, and racial terror.

United States sheriffs and their posses have been responsible for horrendous acts that were rooted in racism, xenophobia, and white supremacy, including the Lattimer Massacre of 1897⁴⁸ and sheriff-led lynchings in Colorado from the 1850s to early 1900s.⁴⁹ By the end of the 1960s, a movement called the Posse Comitatus was developed, seeking

to organize around right-wing, anti-government Christian identity, while promoting anti-Semitic and xenophobic rhetoric.⁵⁰ William Potter Gale, a politically involved preacher, is credited with founding the Posse Comitatus movement after writing a series of articles that were eventually turned into a guidebook for Posse Comitatus adherents.⁵¹ The handbook included calls for sheriffs to be responsible for the armed defense of citizens against external threats, it urged citizens to form posses to resist encroachments on their rights by state or federal governments, and it emphasized that there was no higher form of legitimate government than the county and no higher law enforcement or constitutional authority than the sheriff.⁵²



**UNITED STATES SHERIFFS AND THEIR POSSES
HAVE BEEN RESPONSIBLE FOR HORRENDOUS
ACTS THAT WERE ROOTED IN RACISM,
XENOPHOBIA, AND WHITE SUPREMACY**



While the Posse Comitatus, as an organization, eventually fizzled out, many present-day groups developed out of the Posse Comitatus’s values, including the Constitutional Sheriffs and Peace Officer Association (CSPOA) and Protect America Now (PAN).⁵³ Both of these organizations looked to rally sheriffs across the United States behind the principles of local government control, a fundamentalist constitutional interpretation, and the county sheriff being the sole executive and legal authority in the entire land. Policy positions supported by both of these groups include eliminating gun control legislation, limiting public land rights in favor of private



SHERIFF MIKE TAYLOR
LAKE COUNTY
SERVING SINCE 2015

“Lake County Sheriff’s Office will not enforce mandates that are perceived to be violations of Constitutional infringements on an individual’s civil rights.”

– FROM 2021 PANDEMIC LETTER



SHERIFF TAYLOR’S law enforcement career started with 30 years of service with the Tacoma Washington Police Department before moving to Oregon and serving with the Lake County Sheriff’s Office. While less outspoken than other sheriffs in Oregon, Taylor’s views and approach to law enforcement are a silent application of values rooted in the constitutional sheriff movement. For example, Taylor’s Measure 114 letter attempts to break down how the voter-approved mandate is unconstitutional, encourages residents to purchase firearms before the measure takes effect, and asserts that his office will not enforce Measure 114 unless someone is arrested for a crime involving a firearm.

ownership and control, and enforcing strict anti-immigration laws to protect white nationalist goals.⁵⁴

Ultimately, CSPOA and PAN believe that the only entities sheriffs have to answer to are the voters of their county and the U.S. Constitution. This duty to defend the will of the people and the U.S. Constitution is expected to be upheld by any means necessary, which could include standing up to state lawmakers and governors, refusing to cooperate with state or federal law enforcement, or gathering a posse in an effort of armed-resistance against state or federal encroachment. To this day, CSPOA and PAN are active in campaigning for sheriffs and other local elected officials, indoctrinating new sheriffs into their organizations’ beliefs, and rallying allies at events and conferences where they believe they can build a movement strong enough to combat perceived threats to their altered realities.⁵⁵ CSPOA and PAN rely on an unsuspecting electorate to insert these dangerous candidates into positions of significant power, and once elected, coax the new officials into extremist ideology. Unfortunately, Oregon and its sheriffs have not been impervious to the influence of CPSOA, PAN, and other white nationalist groups. ■

OREGON'S CURRENT SHERIFFS

AS PREVIOUSLY mentioned, present-day Oregon is divided into 36 county governments that each have their own elected sheriffs.

As of this report's publication, these are the 36 individuals that have been elected or appointed to serve as sheriff of their county:

SHERIFFS OF OREGON 2023

COUNTY	SHERIFF	TERM ENDS	LENGTH OF SERVICE
Baker	Travis Ash	2025	7 years, 11 months
Benton	Jef Van Arsdall	2027	2 years, 1 month
Clackamas	Angela Brandenburg	2025	2 years, 3 months
Clatsop	Matt Phillips	2025	3 years, 3 months
Columbia	Brian Pixley	2027	4 years, 3 months
Coos	Gabe Fabrizio	2027	3 months
Crook	John Gautney	2025	7 years, 3 months
Curry	John Ward	2025	8 years, 6 months
Deschutes	Shane Nelson	2025	7 years, 9 months
Douglas	John Hanlin	2025	15 years, 3 months
Gilliam	Gary Bettencourt	2027	18 years, 3 months
Grant	Todd McKinley	2025	2 years, 3 months
Harney	Dan Jenkins	2025	3 years, 3 months
Hood River	Matt English	2025	10 years, 3 months
Jackson	Nathan Sickler	2027	6 years, 2 months
Jefferson	Jason Pollock	2027	9 months
Josephine	Dave Daniel	2027	8 years, 3 months
Klamath	Chris Kaber	2025	6 years, 3 months

COUNTY	SHERIFF	TERM ENDS	LENGTH OF SERVICE
Lake	Mike Taylor	2027	8 years, 3 months
Lane	Cliff Harrold	2025	3 years, 11 months
Lincoln	Curtis Landers	2025	6 years, 10 months
Linn	Michelle Duncan	2027	1 year, 3 months
Malheur	Brian Wolfe	2025	11 years, 10 months
Marion	Joe Kast	2027	3 years, 9 months
Morrow	John A. Bowles	2025	7 months
Multnomah	Nicole M. O'Donnell	2027	3 months
Polk	Mark Garton	2025	7 years, 5 months
Sherman	Brad Lohrey	2025	22 years, 3 months
Tillamook	Joshua R. Brown	2025	2 years, 3 months
Umatilla	Terry Rowan	2025	10 years, 3 months
Union	Cody Bowen	2025	2 years, 3 months
Wallowa	Joel Fish	2025	2 years, 3 months
Wasco	Lane Magill	2025	6 years, 11 months
Washington	Patrick Garrett	2025	11 years, 4 months
Wheeler	Mike Smith	2025	4 years, 4 months
Yamhill	Tim Svenson	2027	8 years, 3 months

* To be sworn into office in 2023.

WHILE NONE of these sheriffs have taken the constitutional sheriff identity to the lengths that former Sheriff Palmer did, the tenures of some of these sheriffs have not been without issue, with some sheriffs beginning their creep toward constitutional sheriff identities and others having held these values for years. This movement toward unilateral decision-making mixed with a proclivity toward extreme local control

seems to have become more present in sheriff's decisions over the past decade, and it presents a serious threat to civil rights, democratic institutions, personal safety of people passing through and residing in these counties. Below is a chart that traces each county and its current or former sheriff's actions during three key events that have signaled a slide toward embracing the constitutional sheriff movement.

SHERIFF ACTIONS INDICATING CONSTITUTIONAL SHERIFF IDENTITY FROM 2013-2022

COUNTY	CURRENT SHERIFF	CSPOA LETTER RE GUN CONTROL (2013)	M105 LETTER RE ANTI-SANCTUARY (2018)	COVID DEFIANCE (2020-2021)
Baker	Travis Ash	No	No	Yes
Benton	Jef Van Arsdall	No	No	No
Clackamas	Angela Brandenburg	No	No	No
Clatsop	Matt Phillips	No	Yes -Former Sheriff Tom Bergin	No
Columbia	Brian Pixley	No	No	Yes
Coos	Gabe Fabrizio	Yes -Former Sheriff Craig Zanni	Yes -Former Sheriff Craig Zanni	Yes -Former Sheriff Craig Zanni
Crook	John Gautney	Yes -Former Sheriff Jim Hensley	No	Yes
Curry	John Ward	Yes -Former Sheriff John Bishop	Yes	N/A
Deschutes	Shane Nelson	Yes - Former Sheriff Larry Blanton	Yes	N/A
Douglas	John Hanlin	Yes	Yes	Yes
Gilliam	Gary Bettencourt	No	Yes	No
Grant	Todd McKinley	Yes - Former Sheriff Glenn Palmer	Yes - Former Sheriff Glenn Palmer	Yes
Harney	Dan Jenkins	No	Yes - Former Sheriff Dave Ward	Yes
Hood River	Matt English	No	No	No
Jackson	Nathan Sickler	Yes - Former Sheriff Mike Winters	No	Yes

COUNTY	CURRENT SHERIFF	CSPOA LETTER RE GUN CONTROL (2013)	M105 LETTER RE ANTI-SANCTUARY (2018)	COVID DEFIANCE (2020-2021)
Jefferson	Jason Pollock	No	No	Yes -Former Sheriff Marc Heckathorn
Josephine	Dave Daniel	Yes - Former Sheriff Gil Gilbertson	No	Yes
Klamath	Chris Kaber	No	Yes	Yes
Lake	Mike Taylor	No	Yes	Yes
Lane	Cliff Harrold	No	No	No
Lincoln	Curtis Landers	No	No	No
Linn	Michelle Duncan	Yes -Former Sheriff Tim Mueller	No	Yes -Former Sheriff Jim Yon
Malheur	Brianb Wolfe	Yes	Yes	Yes
Marion	Joe Kast	No	No	Yes
Morrow	John A. Bowles	No	Yes -Former Sheriff Kenneth Matlack	Yes -Former Sheriff Kenneth Matlack
Multnomah	Nicole M. O'Donnell	Yes -Former Sheriff Dan Staton	No	No
Polk	Mark Garton	No	No	Yes
Sherman	Brad Lohrey	No	Yes	N/A
Tillamook	Joshua R. Brown	No	No	Yes
Umatilla	Terry Rowan	No	Yes	Yes
Union	Cody Bowen	No	Yes -Former Sheriff Boyd Rasmussen	Yes
Wallowa	Joel Fish	No	No	N/A
Wasco	Lane Magill	No	No	N/A
Washington	Patrick Garrett	Yes	No	No
Wheeler	Mike Smith	No	Yes - Former Sheriff Chris Humphrey	N/A
Yamhill	Tim Svenson	No	No	Yes
TOTALS		12	16	21

THE CONSTITUTIONAL SHERIFF MOVEMENT IN OREGON

WHILE THERE are no public rosters that disclose which sheriffs are official and active members of CSPOA or PAN, one need not look any further than recent policy stances and acts of defiance that Oregon sheriffs have taken in the last decade to identify who has aligned themselves with the values of the constitutional sheriff movement. These stances have included publicly opposing federally proposed gun violence prevention policies, collectively signing a letter supporting a state ballot measure that would have repealed Oregon’s decades-old sanctuary law—which protects most noncitizens against the use of state resources to enforce federal immigration law against them—and most recently, opposing the enforcement of the Governor’s executive orders related to COVID-19. While seemingly isolated acts, together they form a dangerous trend that shows an emboldened group of sheriffs who have pushed their already broad authority into extreme and concerning territory. These events set a dangerous precedent for sheriffs ruling with executive-like authority over their counties and demonstrate the consequences of elections being hijacked by extreme white supremacist groups.

CSPOA ANTI-GUN CONTROL LETTER POST-SANDY HOOK SHOOTING

IN 2013, after the Sandy Hook Elementary School Shooting, President Obama announced gun violence prevention reforms that aimed to keep communities, especially children and schools, safe

er and healthier.⁵⁶ Consequently, this served as an initial rallying point for the budding CSPOA whose leader, former Sheriff Richard Mack, used it to incite sheriffs across the country against what they feared would be excessive federal overreach and the violation of Second Amendment rights.⁵⁷ Of the 59 sheriffs that publicly signed onto Mack’s letter, 12 of them were Oregon sheriffs. Of those 12, Douglas County Sheriff John Hanlin, Malheur County Sheriff Brian Wolfe, and Washington County Sheriff Patrick Garrett still serve their

counties as elected sheriffs at the time of this report's publication.

While signing on to support this letter wasn't an act of defiance toward any existing state or federal laws, it was the first time that Oregon sheriffs stepped into the spotlight as being aligned with CSPOA and its ideology. Additionally, it was a collective expression by one-third (12) of Oregon's sheriffs that they would utilize their bully pulpit to speak out against policies that promote the well-being of Oregonians in the name of preserving an extremist interpretation of the U.S. Constitution.

MEASURE 105 SUPPORT LETTER TO REPEAL OREGON'S SANCTUARY LAW

THE NEXT EVENT that prompted a response by Oregon sheriffs who aligned with constitutional sheriff values was during Oregon's 2018 election cycle when Measure 105 was up for a vote on the November General Election ballot. Measure 105 was a proposal to repeal Oregon's decades-old sanctuary state law that limits local law enforcement from cooperating with federal immigration agents and enforcement. Specifically, it would have repealed ORS 181A.820, which forbids state agencies, especially law enforcement, from using state resources or personnel to detect

or apprehend persons whose only violation of the law is that of federal immigration law.⁵⁸

Although Measure 105 was handily defeated by Oregon voters, 15 sheriffs took it upon themselves to sign a joint letter authored by former Sheriff Tom Bergin of Clatsop County in support of repealing Oregon's decades old sanctuary law.⁵⁹ In a subsequent op-ed about the letter, Bergin made tactless generalizations about noncitizen communities, recited fear-based talking points from far-right movements,⁶⁰ and denied the existence of racial bias in law enforcement, blatantly ignoring the systemically racist and violent history of policing and anti-immigration practices in the country, let alone the state of Oregon.⁶¹ Furthermore, Bergin's letter demonstrated how the xenophobic, racist, and white supremacist values of the constitutional sheriff movement are being publicly embraced by some Oregon sheriffs. The sheriffs who signed this letter demonstrated their acceptance of these values, if not provided their full endorsement of these bigoted belief systems.

DEFIANCE AGAINST COVID-19 EXECUTIVE ORDERS

MOST RECENTLY, in a grand act of defiance against Oregon's governor and commander-in-chief, 21 of the state's sheriffs came out with individually authored letters, emails, and social media posts stating that they

would not abide by Gov. Brown’s emergency executive orders that were aimed at keeping Oregon residents safe and healthy during the COVID-19 pandemic (e.g., mandatory masking, social distancing, limiting large gatherings, etc.)—even though no state officials had asked the sheriffs to enforce the mandates.⁶² Their insubordination toward the highest-ranking state official persisted despite state and federal courts ruling that the executive orders were legal and well-within the governor’s ability, on four separate occasions.⁶³ Common themes in the sheriffs’ letters included: a belief that local county control should take precedent over state and federal overreach, an emphasis that their defiance was on behalf of their constituents, and an assertion that resistance was possible against future state or federal mandates.

Harney County Sheriff Dan Jenkins criticized the mandates, stating “Covid has been used as an excuse to enact emergency procedures that test the tolerance of the citizens when their freedoms are being taken away. The mandates do not fall within the superior mandates of the Constitution of the United States.”⁶⁴ Douglas County Sheriff John Hanlin implied COVID-19 mandates were built on deception and oppression, writing “My office is committed to... safeguard lives and property to protect the innocent against deception; the weak against oppression or intimidation[.]”⁶⁵ Malheur County Sheriff Brian Wolfe threatened escalated action of additional

mandates, writing “Furthermore, we will resist future unconstitutional mandates.”⁶⁶ Union County Sheriff Cody Bowen exclaimed, “Enough of you dictating our state by fear. You have once again initiated what many consider to be an unconstitutional mandate... Your mindless dictates will no longer be tolerated.”⁶⁷ Collectively, these statements regarding COVID-19 mandates are the biggest step that present-day Oregon sheriffs have taken toward fully embracing the values behind constitutional sheriff movement.

Although the examples of sheriffs’ past actions in the last decade primarily served as an opportunity for political grandstanding, the impetus behind these choices tell a foreboding tale about how a minority of far-right activists and white supremacists have gradually infiltrated non-partisan local elected offices and pushed them to prioritize their extremist values over community well-being and state and federal authority. It has been a long-haul effort for these groups and candidates, but by the time the pandemic came around and helped sow distrust and frustration with “big government,” these groups were given enough power to elect extremist candidates or push current officials to the fringes. Now, we are entering an unprecedented era where local elected positions have been stacked with individuals who are willing to reshape the rules and scope of public offices in the mold of fascist and white supremacist values, and no office has broader authority that can be manipulated into a dangerous tool than the sheriff. ■

FURTHER CONCERNS REGARDING SHERIFFS IN OREGON

NOTWITHSTANDING THE occasional news report, Oregon sheriffs operate as a relatively silent and unknown entity in the public sphere. Subsequently, there is little effective accountability or oversight that the public holds over them since it's difficult for voters to keep something in check when they don't understand much about it to begin with. To the average voter, police and sheriffs can seem one and the same: law enforcement. So, even though sheriff's offices have more power and authority than municipal police agencies, sheriffs and their deputies have managed to avoid the same level of public focus and scrutiny that their municipal counterparts have received.

For such a consequential position to go misunderstood or forgotten by the electorate is exactly how constitutional sheriff supporters have gained influence over many sheriff's offices. Should this trend continue, an increase in criminal legal issues could arise as these sheriffs and their supporters become rooted into their counties, including unchecked expansion of mass incarceration, mass deputization of citizens as volunteer deputies or posse members who are only accountable to the sheriff, illegal coordination with federal agents against immigrant communities, and increased attempts to unlawfully dictate the rule of law within their jurisdiction.

SHERIFFS' CONTROL OVER JAIL BEDSPACE AND POLICY

ONE OF THE primary concerns about sheriffs is their unilateral control over the county jails that serve as the primary carceral system of any local jurisdiction. While prisons are commonly discussed and heavily scrutinized, county jails deserve equal, if not greater, scrutiny due to the number of people they impact in a given year. For example, in 2019, although Oregon state prisons held 14,961 individuals in state custody compared to their local counterparts incarcerating about

7,100 individuals in total,⁶⁸ just over 180,000 admissions were made by county jails in the same year⁶⁹—a statistic which suggests that jails have a larger imprint on the community than prisons. Consequently, this means sheriffs have extraordinary influence and power over who becomes involved in the justice system and how.

A sheriff's consolidated role as chief law enforcement, jail administrator, and an elected official, gives them an unparalleled role where they can unilaterally control the supply and demand of jail bed space, leading to various consequences ranging from newly constructed jail facilities to overcrowding existing jails.⁷⁰ Sheriffs can dictate the supply of jail bedspace by advocating for jail expansion and construction in coordination with county commissioners. The common mechanism by which these projects are funded comes in the form of voter-approved general obligation bonds, which give the public the power to scrutinize and decide whether their community will expand the carceral system.⁷¹ Should sheriffs and county commissioners decide against making the community responsible for raising revenue for jail expansion, they can choose to build and expand at the financial expense of defendants and incarcerated individuals through the imposition of court-ordered fines and fees aimed at recouping jail costs.⁷² This path mitigates the amount of public scrutiny that county officials are subjected to, but they inequitably burden individuals who are impacted by the criminal justice system.⁷³ In either jail-financing path, the sheriff plays a crucial role in making the case for increased jail bed space, lobbying county commissioners and the public for support of expansion,

and securing support for approving the revenue necessary to complete the task.

Running parallel to their role in controlling jail bed space supply is a sheriff's ability to also manipulate the demand for bed space.⁷⁴ For starters, sheriffs can use their discretion in deciding what offenses will be subject to arrest and criminal charges and which offenses will be given citations in lieu of an arrest.⁷⁵ This discretion allows sheriffs to ease up on the number of individuals arrested if jail space is low, or to ramp up arrests by their office if jail space is available. Sheriffs also hold the discretion of whether or not to accept a municipal police officer's arrest or a judge's decision to impose bail—both of which are ways that a sheriff can control demand for jail bed space from other parts of the criminal justice system.⁷⁶ If it is within their statutory authority, a sheriff can simply choose to cite and release individuals in the aforementioned scenarios. Under ORS 169.042-169.046, Oregon sheriffs are also empowered to create an overcrowding cap on jails that would require the jail population to be reduced once the cap is hit.⁷⁷ The sheriff, along with county commissioners or the county court, is responsible for what the population cap number is, which further empowers them to control how crowded—or not crowded—they choose to keep their jails. Should local demand for jail bed space ever fall too low to keep a jail filled, a sheriff can offer—for a price—to hold AICs from other local, county, or state jurisdictions.⁷⁸ By occupying a powerful role that can easily manipulate the supply and demand of jail bed space, the sheriff's office holds extraordinary power that could be used to dismantle mass incarceration or exacerbate it. ■

SHERIFFS' ABILITY TO RAISE A PERSONAL ARMY

ANOTHER CONCERN exists in the sheriff's power to raise a personal army (posse) of special deputy volunteers without any legitimate training, vetting, or checks and balances. Former Sheriff Palmer utilized this statutory power to bring together a posse often and excessively, using these volunteer civilians to spy on and harass federal lands workers, to serve as his eyes and ears within the county, and to carry out any personal bidding that he required.⁷⁹ None of these posse members had to be registered with the Department of Public Safety Standards and Training agency—the agency that oversees training and certification of all public law enforcement—nor were they required to possess any formal law enforcement training.⁸⁰ Some of these deputies were allowed to carry law enforcement badges and were granted access to government-owned lands that are typically off-limits to the everyday civilian.⁸¹ When questioned about the selection process or qualifications of these special deputies, Palmer refused to provide any details.⁸² Furthermore, Oregon statute doesn't outline any limitations on the policing power or capabilities of a sheriff's special deputies. Therefore, Palmer was not limited in the roles and responsibilities he could empower his special deputies with.

Palmer's modern-day posse of 69 special deputies was unprecedented in Oregon and has not been replicated since. However, given the convergence of white nationalist groups holding influence and power over local elected offices, an increase in anti-government sentiment, and a historic rollback of civil rights in the United States' highest courts,



SHERIFF CHRIS KABER KLAMATH COUNTY SERVING SINCE 2017

“Individual counties must be allowed to make decisions based on each county’s particular health and safety concerns.”

— FROM 2021 PANDEMIC LETTER



SHERIFF KABER HAD a 26-year career with Oregon State Police as a patrol officer, detective, drug team supervisor, and polygraph examiner before running for the sheriff's office. For an individual with significant state agency experience, Kaber's comments regarding the pandemic and Measure 114 have had a strong emphasis on local control and decision-making over statewide mandates. Twice in his pandemic letter, Kaber stresses the individuality and autonomy of counties. Kaber has also been a staunch supporter of increased punitive sentencing for defendants, complaining that if Oregon is no longer interested in holding people in prisons for longer sentences, he would “make room in [the Klamath] jail for everyone convicted of any felony crime or misdemeanor person crimes.”

the ability for a sheriff to create a posse of special deputies poses a serious threat to those within a county similar to Palmer's. As more law enforcement members, especially sheriffs and their deputies, become associated with groups like CSPOA, PAN, the Oath Keepers, and the Three Percenters, the threat of anti-government and far-right militia members becoming deputized into a sheriff's posse becomes an increasing concern. With little to no federal, state, or county oversight over special deputies, a sheriff could emulate the practices of former Sheriff Palmer and even take them to greater extremes. Essentially acting as a personal army, a sheriff's posse could aid in arresting enemies, harassing opponents, and even serve as an armed force against the state or federal government. This statutory power needs to be given some side rails, because if it goes unchecked it could fall into the wrong hands and lead to grave constitutional violations and violence.

SHERIFFS' ACTIONS AGAINST IMMIGRANT COMMUNITIES

IN THE LAST few years, the decades-old sanctuary state status of Oregon—which was passed in 1987 and has been strengthened several times since—has been targeted by sheriff's offices, federal agents, and anti-immigration groups. The sanctuary law, ORS 181A.820, strictly prohibits state and local law enforcement from directly or indirectly participating in the detecting or apprehending of individuals when their only violation

is that of federal immigration laws.⁸³ Yet, recent actions taken by some sheriffs and their deputies have run counter to the spirit and values behind the 1987 law, if not in direct violation.

Beyond signing onto a letter in support of Measure 105 (2018),⁸⁴ sheriffs have been actively engaging with national anti-immigration groups that advocate for hardline policies against immigrant communities. Such groups, like the Federation for American Immigration Reform (FAIR), have flown out former Morrow County Sheriff Matlack and former Sheriff Glenn Palmer to conventions where law enforcement engages with advocates rooted in xenophobic, anti-immigrant, and racist values.⁸⁵ FAIR has actively lobbied at the federal and state levels to reduce immigration to the United States by relying on unfounded fear-based propaganda, such as attempting to falsely tie increases in local crime to noncitizen communities.⁸⁶

Ultimately, the direct relationship between anti-immigrant values and the constitutional sheriff movement—demonstrated in the policies and actions supported by CSPOA and PAN^{87 88}—has manifested itself in sheriffs taking actions that pose a challenge to Oregon's sanctuary state laws. Starting after the election of former President Trump, Immigration and Customs Enforcement (ICE) agents coordinated with sheriff's offices to target noncitizen individuals and those perceived to be noncitizens. In Multnomah County, a sheriff's deputy allegedly supplied ICE agents with information that facilitated the arrest of several immigrants directly from the Multnomah County Courthouse.⁸⁹ In Lane County, the sheriff's department was accused of directly contacting ICE to inform them about noncitizens being released from their jail and giving the federal agency access to the back entrance to make the arrests.⁹⁰ Furthermore, in Washington Coun-



SHERIFF JOHN HANLIN
DOUGLAS COUNTY
SERVING SINCE 2009

“My office is committed to... serve mankind; to safeguard lives and property to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder and to respect the Constitutional rights of all men[.]”

— FROM 2021 PANDEMIC LETTER



SHERIFF HANLIN STARTED his career with the Douglas County Sheriff’s Office in 1989. After working on street crimes and narcotics units, he was promoted to lieutenant in 2005 before becoming sheriff a few years later. The longest-serving sheriff in the state, Hanlin has been a staunch opponent against perceived state and federal overreach. In an exchange with a CNN anchor, Hanlin pushed back against uniform background checks and executive orders on gun control, stating, “Gun control is not the answer to preventing heinous crimes like school shootings.” Hanlin was also strongly opposed to Gov. Brown’s pandemic executive orders and the state’s decades-old immigration Sanctuary law

ty, ICE subpoenaed the sheriff’s office demanding information regarding two adults in custody perceived to be noncitizens—to which the sheriff’s office complied, stating that the provisions of the sanctuary law allowed for the information requested to be shared.⁹¹

The rollback of the beliefs and values behind Oregon’s sanctuary law, such as the preservation of every human’s dignity, freedom, and civil rights regardless of identity or birthright, poses a serious threat to Oregon’s immigrant communities. Should sheriffs, indoctrinated by the constitutional sheriff movement and the anti-immigrant rhetoric of extremists in their communities, continue in their coordination with federal immigration authorities without retribution from state officials, they will become emboldened in the power they hold over their county. The consequences of this could have implications that extend well past the communities of immigrants, noncitizens, and people of color.

SHERIFFS’ INFLUENCE OVER DEMOCRATIC INSTITUTIONS

FINALLY, THERE are sheriffs who deliberately violate state and federal laws due to the false belief that they can dictate legal authority and reality within their county. While seemingly implausible in concept, the constitutional sheriff movement’s twisted interpretation of history and the U.S. Constitution has not dissuaded sheriffs in Oregon and across the nation from buying into

the rhetoric that they are the last line of defense for their county and its people against an allegedly overbearing state and federal government. As a result, it should not come as a surprise when reports of resistance and pushback by sheriffs against their state and federal leaders occur around cultural, political, and legal flashpoints. A constitutional sheriff's goal is to preserve the false reality that they and their extremist supporters live in and benefit from, and bending or attacking truth, laws, and due process are not beneath these elected officials.

At recent "True the Vote" events, sheriffs associated with CSPOA and PAN have begun to lean into the false reports about election fraud during the 2020 General Election.⁹² This includes encouraging constituents to join them in public criticism against state and county election officials, increasing surveillance of ballot drop boxes, and investigating anonymous tips about alleged voter fraud.⁹³ Even more worrying is that some sheriffs are using this fearmongering and distrust in government to advocate for larger budgets for their offices and police departments on the basis that more personnel is needed to "protect the vote."⁹⁴ The emboldening of sheriffs and their supporters has pushed them to even circumvent local laws and practices, such as a Kansas sheriff requesting that ballot drop boxes be eliminated and that his deputies be allowed to

oversee vote counting, "despite state law delegating running and counting of elections to citizens who are elected and appointed..."⁹⁵ These actions further validate the claims that sheriff's offices are continuing to uphold unfounded claims of voter fraud, while using the opportunity to try to expand their powers, bypass state and local laws, and insert themselves as an authoritative figure within the democratic process.

It is a grave reality that Oregon and many other states are entering an ominous period where the Supreme Court's rollback of civil rights and government protections⁹⁶ has occurred while far-right extremism finds strong footholds within local and statewide democratic institutions—all of which is taking place in an era when the U.S. has the largest, most sophisticated carceral system in the world. All of these factors being simultaneously present and acting in beneficial alignment pose an unprecedented risk to local communities. Unfortunately, many Oregon sheriffs have already demonstrated their willingness to defy the state government and place their constituency's health and well-being at great risk during a worldwide pandemic. Oregonians must stay vigilant, they must pay attention to local elections far down the ballot, and they must hold sheriffs accountable for unconstitutional and undemocratic actions. ■

RECOMMENDATIONS

RECOMMENDATION TO THE PEOPLE

THOUGH ALARMING to the safety and civil rights of civilians, the increasing threat that the constitutional sheriff movement poses in Oregon is not without a solution or hope. Voters have the direct ability to hold constitutional sheriffs accountable for their abuses of state and federal laws, their denial of due process, and their violation of civil rights, as the only elected law enforcement official in the land. This is in stark contrast to municipal police chiefs and their officers, state troopers, and federal law enforcement that are all employees that serve at the pleasure of elected officials and appointed agency leaders. For most of those law enforcement members, there is no direct method for the public to hold them accountable. But for sheriffs, it is essential that Oregonians utilize their ability to vote to remove constitutional sheriffs from office and keep new ones from gaining momentum in budding campaigns.

In addition to voting current constitutional sheriffs out and keeping new ones from gaining a foothold, voters can also push the conversation toward progress by supporting reform-minded sher-

iffs and policies. From calling for unarmed mental health response teams to professionally attend to individuals experiencing mental health crises to parring back what roles and duties that sheriffs hold, voters and advocates can reimagine what sheriff's offices look like and are responsible for. Elected officials, in an effort to gain favor from voters, typically run on policy platforms that are informed by community wants and needs. The more that voters are informed about the sheriff's office and the broad role they play in the community, the quicker the electorate can be mobilized and invest in candidates, their races, and the policies they run on.

The residents of Grant County during the late 2010s are a recent example of the electorate mobilizing to pushback against and oust a sheriff aligned with the constitutional sheriff movement. A group called Grant County Positive Action took it upon themselves to organize the community against the occupation of Malheur National Wildlife Refuge, leaders of far-right extremists and militias, and the actions of former Sheriff Palmer.⁹⁷ From taking out ads in local newspapers to coordinating protests in the county,⁹⁸ Grant County Positive Action was able to rally a significant base of residents who had been fed up with the legal viola-

tions, abuse, and disorder that was doled out by Palmer and his extremist associates. Even a 911 dispatch manager within Palmer’s county took matters into their own hands by filing a formal complaint with the state public safety standards and training agency, while others stayed silent for fear of their professional careers.⁹⁹ The people of Grant County, staff of public agencies, and organizations like Rural Organizing Project and Grant County Positive Action all played a critical role in the collective effort that led to Palmer’s ousting in the 2020 General Election.¹⁰⁰ Their efforts serve as a reminder that no county, rural or urban, is a monolith of ideals and values, and that voters have the power to unseat even the most entrenched and corrupted elected officials.

RECOMMENDATION TO POLICYMAKERS

IN RESPONSE to the lack of oversight over sheriffs, their department employees, correctional staff, and deputies, California’s governor signed AB 1185 into law in 2020, which authorized each county’s board of supervisors or county voters to establish a civilian sheriff oversight board or inspector general position that can investigate sheriffs.¹⁰¹ In addition to aiding county board of supervisors in their routine supervision of sheriff’s offices, AB 1185 empowered civilian sheriff oversight boards and county inspector general offices with the ability to subpoena sheriff’s offices for the purposes of effectively investigating sheriff misconduct.¹⁰² The passage of AB 1185

has led to multiple oversight proposals in counties across the state,¹⁰³ the creation of San Francisco County’s Sheriff’s Department Oversight Board,¹⁰⁴ and the environment necessary to elect reform-minded sheriffs, like Sheriff Yesenia Sanchez of Alameda County.¹⁰⁵

Oregon elected officials, whether at the state or county level, could develop similar legislation to AB 1185 that enables the Oregon public to hold sheriff’s offices accountable beyond the ballot box. By passing legislation that creates civilian oversight boards or inspector general offices, actions like the ones former Sheriff Palmer and his posse engaged in could be thoroughly investigated, reported to the public, and even penalized. Furthermore, it could discourage sheriff and deputy association with the constitutional sheriff movement out of fear of public scrutiny and reprimand. Finally, empowering a civilian board or inspector general office to subpoena Oregon sheriffs and their personnel can serve as a powerful tool for truth and accountability during investigations.

Meanwhile, independent, dedicated oversight of sheriffs at the state-level is non-existent in Oregon. There are no commissions, task forces, or committees in either the state executive, legislative, or judicial branches of government that hold sheriffs and their offices accountable. Yet, each branch holds a crucial stake in the actions and decisions made by sheriffs in their state—the state legislature is responsible for passing the laws that sheriff’s offices are supposed to execute, the Governor’s office is charged with administering and carrying out laws that sheriffs are tasked with enforcing (particularly criminal laws), and the state court system presides over alleged offenses brought forward by arrests and referrals that come from sheriff’s offices.

Therefore, an interbranch commission, that could be housed in the executive branch, should be established as a means for legislators, judges, and executive officials to jointly oversee Oregon's sheriffs. In addition to being granted the ability to subpoena, similar to the power outlined in AB 1185, the interbranch commission should also hold the power to sanction and discipline sheriffs that take illegal and unethical actions against the public. Since a sheriff cannot be removed from office, sanctions and disciplines could come in the form of recommendations for budget cuts, mandatory trainings for sheriffs and their deputies, or revocation of a sheriff's law enforcement certifications (from the Department of Safety Standards and Training). All of these tools should be made available to the interbranch commission through statutory provisions in order to effectively reign in sheriff malfeasance and prevent further harms against Oregonians.

RECOMMENDATION TO LAW ENFORCEMENT LEADERS

AN ARTICLE by Oregon Public Broadcasting in October 2021 revealed that a leaked roster listed dozens of Oregon law enforcement officers as being registered members of the Oath Keepers militia, thus validating claims about far-right extremist organizations infiltrating the ranks of state and local law enforcement agencies.¹⁰⁶ For these officers—who are sworn to protect the state and community—to align themselves with a

militia that is rooted in white nationalist and anti-government values is unacceptable. The roster leak of the Oath Keepers should have served as a wake-up-call to law enforcement leaders and the state that action was needed to root out far-right extremists and to distance themselves from white supremacist values.

Less than a year later, the Commission on Law Enforcement Standards of Conduct and Discipline (CLESCD) was convened via HB 2930 (2021) to bring together members of law enforcement and the community to establish what guidelines would be developed to hold Oregon's law enforcement to account.¹⁰⁷ Of the 13 voting members on the commission, at least nine members were statutorily required to represent state agencies, courts, law enforcement, or other bureaucratic agencies. By the summer of 2022, as the CLESCD began voting on draft rules that would govern police conduct in Oregon, a majority of the members declined to vote on establishing penalties, if any, that a law enforcement officer would face if they were found to join or be associated with a hate or extremist group.¹⁰⁸ Benny Williams, a former NAACP regional president and voting member on the commission, expressed that "... [I]t is known that there are officers in the state involved with or sympathetic to white supremacist and extremist groups. If nothing is done to address the close relationship between extremist groups and some law enforcement, trust between the community and the police will never be restored."¹⁰⁹

Because CLESCD failed to set a standard for law enforcement officials aligned with extremist organizations, law enforcement agencies themselves must fill in the gaps by holding their members and peers to higher standards and expectations of professional conduct in places where the

public and policymakers cannot. This includes sheriffs, police chiefs, and other high-ranking officers that are tasked with managing other officers and agency staff. The law enforcement officials who remain silent or refuse to take action, like those on the CLESCD, are complicit to the fascism, white nationalism, and violence that permeates through

their offices. Unless the CLESCD revisits this matter and sets a standard across the entire state for conduct related to extremist group affiliation, it is incumbent on municipal and county law enforcement leaders to set their own policies and standards that are brave and courageous enough to stand up against hate, violence, and bigotry. ■

CONCLUSION

FROM ITS INCEPTION, the sheriff's office's mandate was service to its people. Sheriffs were elected to represent the will of the people in a king's court, chosen to protect the shire and its people from external threats, and tasked with objectively enforcing the laws of the land.

It is at the leisure of the entire community, not a small group of anti-government militants, that a sheriff receives its power and legitimacy. Notwithstanding the duty to their people, sheriffs are also servants of the state tasked with carrying out the laws and orders that come from the federal government, governor, courts, and state legislature, as those institutions also serve and carry out the will of the people. Both state and community are equally important to the existence of the sheriff's office and reinforce that the sheriff is not a lone actor who is free to reinterpret and remake their duties and responsibilities of the office in a vacuum, let alone on the fringes of society.

It's long overdue that the sheriff's office be placed front and center in the eyes of the public—much like the recent electoral focus on district attorneys' offices across the country—so that voters can effectively provide oversight on their broad and vast powers. The consequences of failing to do so can validate violent insurrectionists, reduce protection of civil rights, and ultimately cost individual's their lives. This is not a risk Oregon can accept. Safe and unencumbered access to voting boxes and booths, the freedom to travel across county lines without worry, and the preservation of due process and civil liberties are at stake—all of which are essential to the health of the state and country.

Coming out of the pandemic, Oregon and its 36 sheriffs are at an existential crossroads. Far-right extremists and anti-government militias have used

the pandemic and their platforms to convince sheriff candidates and the electorate that their values represent the will of the majority, all while sheriff's offices across the country have become emboldened in their political rhetoric and selective policy enforcement. If left unchecked, the state could see its sheriffs slide further into the belief system of the constitutional sheriff movement, posing a serious threat to state and federal government laws, the fabric of society's democratic institutions, and the well-being and civil rights of everyday Oregonians. It is the urgent duty of the public, policymakers, and law enforcement leaders to ensure that this does not happen and that sheriffs are kept in check to act constitutionally, rather than autocratically. ■

ADDENDUM

AFTER THE November General Election of 2022, a voter-driven initiative titled Measure 114 was passed by Oregonians with 50.65% of the vote.¹¹⁰ Measure 114 was put forward and supported by a broad coalition of gun violence prevention advocates, an effort which was then galvanized by community volunteers in the wake of the Buffalo, NY and Uvalde, TX shootings.¹¹¹ The measure enacted the following legal requirements around firearm purchase and magazine capacity restrictions: a permit-to-purchase system for acquiring firearms—which includes paying a fee, submitting photo identification, fingerprinting, firearm safety training, and passing a criminal background check—and the prohibition of purchase, sale, manufacture, and possession of ammunition magazines that hold more than 10 rounds.¹¹² Violations of Measure 114 are a class A misdemeanor, subject to sentencing of up to 364 days in jail, a fine of up to \$6,250, or both.¹¹³

Subsequently, twenty-six Oregon sheriffs took to official online accounts of their offices to post letters expressing their opposition to Measure 114, with some going as far to claim that they would not enforce parts of the new, voter-approved law. Some of these letters were written prior to Election Day encouraging voters to oppose the measure while other letters were written after its passage; a handful even wrote both types of letters. Using Measure 114 as their latest political flashpoint against perceived government overreach, these sheriffs continued to demonstrate unprecedented confidence in publicly pushing back against state authority and the will of the people. Once a motion to establish a temporary restraining order on the new regulations was filed by state and national gun advocates, leaders of the Oregon State Sheriffs Association promptly submitted statements in support of the motion to the federal judge.¹¹⁴

The latest round of letters authored by sitting sheriffs, and the increase in the number of sheriffs speaking out on a policy issue, reveals that the values of the constitutional sheriff movement continue to expand and become further entrenched in sheriff's offices across the state of Oregon. The increasing frequency and ease at which these statements come out are alarming for community safety, uniformity of law application, and overall preservation of democratic institutions. While the federal courts will ultimately decide the legal fate of Measure 114 in Oregon, there is no guarantee that the sheriffs will abide by what the judge orders in their day-to-day enforcement. If anything, their letters are an indicator of how they might utilize their discretion, bias, or apathy to proceed once the federal courts have made their decisions. Below are the letters that Oregon sheriffs published in response to Measure 114's passage, the number of which is accurate as of this report's writing.

COUNTY	CURRENT SHERIFF	MEASURE 114 LETTERS (2022)	NOTES
Baker	Travis Ash	Yes	
Benton	Jef Van Arsdall	No	
Clackamas	Angela Brandenburg	No	
Clatsop	Matt Phillips	Yes	
Columbia	Brian Pixley	Yes	Reshared OSSA's Measure 114 opposition video and encouraged the community to vote in opposition.
Coos	Gabe Fabrizio	N/A	Not sworn in yet. Former Sheriff Craig Zanni did not publish anything regarding Measure 114.
Crook	John Gautney	Yes	
Curry	John Ward	No	
Deschutes	Shane Nelson	Yes	
Douglas	John Hanlin	Yes	
Gilliam	Gary Bettencourt	No	Reshared OSSA's Measure 114 opposition video.
Grant	Todd McKinley	No	Reshared OSSA's statement.
Harney	Dan Jenkins	Yes	
Hood River	Matt English	No	
Jackson	Nathan Sickler	Yes	
Jefferson	Jason Pollock	Yes	
Josephine	Dave Daniel	Yes	
Klamath	Chris Kaber	Yes	
Lake	Mike Taylor	Yes	
Lane	Cliff Harrold	No	
Lincoln	Curtis Landers	Yes	
Linn	Michelle Duncan	Yes	
Malheur	Brian Wolfe	Yes	Linked media is an interview with Sheriff Wolfe vowing not to enforce parts of Measure 114.
Marion	Joe Kast	Yes	
Morrow	John A. Bowles	Yes	
Multnomah	Nicole M. O'Donnell	No	Former Sheriff Michael Reese did not publish anything regarding Measure 114.
Polk	Mark Garton	Yes, see notes.	Page 1 and page 2.
Sherman	Brad Lohrey	Yes	
Tillamook	Joshua R. Brown	Yes	

COUNTY	CURRENT SHERIFF	MEASURE 114 LETTERS (2022)	NOTES
Umatilla	Terry Rowan	Yes	Linked media is an interview with Sheriff Rowan vowing not to enforce parts of Measure 114.
Union	Cody Bowen	Yes	
Wallowa	Joel Fish	Yes	Linked media is an interview with Sheriff Fish vowing not to enforce parts of Measure 114.
Wasco	Lane Magill	Yes	
Washington	Patrick Garrett	Yes	
Wheeler	Mike Smith	No	
Yamhill	Tim Svenson	Yes	
TOTAL		26	

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