In the wake of the murder of George Floyd at the hands of police and America’s overdue awakening to the consequences of deeply rooted, long-held racism, communities across the country are considering different approaches to reforming local policing. As part of the Local Solutions Support Center’s ongoing efforts to help local leaders understand and deploy their authority to address their communities’ needs, we have produced this memo outlining legal possibilities and prohibitions.

REFORM OF POLICE DEPARTMENTS

MUNICIPAL REFORMS

Most city governments have power over the funding, organization, and operations of their police departments. According to the Urban Institute, most police spending occurs at the municipal level (86% in 2017).

**Avenues for Reform**

- **Mayors** usually have the power to determine the leadership of the police departments, their procedure and practices, and certain aspects of their organization. Mayors can accomplish this through personnel decisions, executive orders, or by initiating a revision of the city charter.

- **City Councils** usually have the power to determine the funding for police departments, their procedure and practices, and their organization. City Councils can accomplish this by passing a city budget, enacting a city ordinance, or initiating a revision to a city charter.

- **City residents** can sometimes reorganize or reform police departments directly. They might be able to do so through a ballot initiative to enact an ordinance or amend the city charter.

**Potential Limitations**

- Reforms might be limited by provisions in the city charter, requiring an amendment to the **city charter**.

- Reforms might be limited by conditions in **city contracts** with police unions, requiring some way to break or renegotiate the contract.

- Reforms might be limited by special provisions in **state law**, requiring repeal or amendments of those provisions by the state legislature.
Most state governments have power and influence over the funding, organization, and operations of city police departments.

### Avenues for Reform

- **Governors and State Attorneys General** can initiate investigations of city police departments. Governors might be able to alter some practices and procedures through an executive order. The State Attorney General can prosecute for violations of state law, like civil rights protections.

- **State legislatures** can sometimes direct the cities to fund police departments in a certain way, or change how city police departments are organized by passing a state statute. The state legislature can also enact laws that prohibit certain police practices, or condition state grants on cities reforming their police departments in certain ways.

- **State residents** can sometimes reorganize or reform police departments in the entire state directly. They might be able to do this through a ballot initiative to enact a particular state law, civil litigation, or amending the state constitution.

### Potential Limitations

- **“Home rule”** provisions in the state constitution may limit the ability of the state legislature to alter the responsibilities and organization of city police departments without the city’s consent.

- Prohibitions against “special legislation” in the state constitution may limit the ability of the state legislature to mandate reforms that apply to a specific police department rather than police departments across the entire state.

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County sheriffs usually have power over the organization and operations of the sheriff’s department. Most county governments have no direct control over sheriffs and their deputies, but can influence their activities through the funding allocated to the sheriff’s department.

### Avenues for Reform

- **Sheriffs** can determine the practices, priorities, and organization of their department.

- **County legislatures** usually have the power to determine the funding for sheriff’s departments and the rights of local residents. They can do this by passing a county budget or passing a county ordinance.

### Potential Limitations

- Reforms might be limited by provisions in the **county charter** (rare) or **state laws** concerning the organization of county governments (more common).

- Reforms might be limited by conditions in **county contracts** with sheriff’s department unions, requiring some way to break or renegotiate the contract.

- Reforms might be limited by other provisions in **state law**, requiring repeal or amendments of those provisions by the state legislature.

- The office of the sheriff is usually established through the **state constitution**. If this is the case, the sheriff’s office cannot be abolished without an amendment to the state constitution. In some cases, the state constitution may also limit substantial reforms to the sheriff’s department.
REFORM OF SHERIFF’S DEPARTMENTS

Most state governments have power and influence over the funding, organization, and operations of sheriffs’ departments.

Avenues for Reform

Governors and State Attorneys General can initiate investigations of sheriff’s departments and sometimes remove sheriffs for certain reasons. Governors might be able to alter some practices and procedures through an executive order. The State Attorney General can prosecute for violations of state law, like civil rights protections. The Governor or the State Attorney General might be able to initiate removal proceedings against sheriffs for abuses.

State legislatures can often direct counties to fund sheriff’s departments in a certain way or change how sheriff’s departments are organized by passing a state statute. The state legislature can also enact laws that prohibit certain practices of sheriffs and their deputies, or condition state grants on sheriffs reforming their departments in certain ways.

State residents can sometimes reorganize or reform sheriff’s departments in the state directly. They might be able to do this through a ballot initiative to enact a particular state law or amend the state constitution.

Potential Limitations

“Home rule” provisions in the state constitution may limit the ability of the state legislature to alter the responsibilities and organization of county sheriff’s departments, though that is less common than in the case of cities.

Prohibitions against “special legislation” in the state constitution may limit the ability of the state legislature to mandate reforms that apply to a specific sheriff’s department rather than sheriff’s departments across the entire state.

The office of the sheriff is usually established through the state constitution. If this is the case, the sheriff’s office cannot be abolished without an amendment to the state constitution. In some cases, the state constitution may also limit substantial reforms to the sheriff’s department.

This document is designed to guide initial analysis, encourage creativity, and prompt more conversation about the need for strong local authority to address local needs. The information provided in this document does not, and is not intended to, constitute legal advice. Individuals and organizations should contact an attorney licensed to practice in their state to obtain advice with respect to a particular legal matter.

For additional support, please contact The Local Solutions Support Center at LSSC@supportdemocracy.org