

POWERS & DUTIES of the OFFICE OF SHERIFF



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October 1, 2009 – December 31, 2018*



Introduction

- Origin of the Office of Sheriff
- History of the office in America
- History of the office in Washington State
- Oath of Office
- Bonds
- The Difference between Office and Department
- Courts
- Civil Service
- Chaplains



Objectives

- Impress upon each of you the “Exclusive Powers and Authority of the Office of Sheriff
- Highlight specific Duties and Responsibilities of the Office of Sheriff - referencing common law and state statutes.



Origin of the Office of Sheriff

- The office of Sheriff is one of the oldest offices known to the Common Law System of Jurisprudence.
- The office of Sheriff is an Office of great dignity and greater antiquity. (the ancient period of history)
- The office of Sheriff was first established in America when counties were established in 1634. The Sheriff's were appointed



➤ **The first elected Sheriff was in 1651.**

When the Office of Sheriff came to America it brought the customary duties of law enforcement and tax collecting. In America, Sheriffs generally took on the additional duty of overseeing jails. In England, overseeing the jails was not a duty of the Sheriff

➤ **In the United States, a majority of the states established the Office of Sheriff in their State Constitutions.**

➤ **The other states established the Office of Sheriff by an act of their State Legislature.**

➤ **The Office of Sheriff in the state of Washington was established in our State Constitution, Article XI Section 5. (RCW 36.16.030 Requires that every County elect a Sheriff)**

➤ **Only 2 states exist where the Office of Sheriff is not elected - Hawaii & Rhode Island.**

➤ **Alaska was the only state where the Office of Sheriff did not exist. That was changed to include the state of Connecticut effective January 1, 2001. The people of Connecticut voted to amend their state constitution and eliminated the Office of Sheriff.**



POWERS & DUTIES of the SHERIFF

- The modern Office of Sheriff carries with it all of the common law powers, duties and responsibilities attendant upon an office of such antiquity and high dignity, except insofar as the office has been legally modified by legislative enactment.
- The Sheriff is not a county police chief.
- The Sheriff works for the people, not the commissioners.
- The Sheriff does not work for county government, but is part of county government.



It is not only the power, but the duty of sheriffs in their various jurisdictions to:

- Preserve the peace
- Enforce the laws and arrest and commit to jail felons and other infractors of the law
- Execute all process directed to the sheriff
- Attend trial courts of record
- Carry out all mandates, orders, and directions of the courts
- **The Sheriff is to defend his county against any of its enemies, when they come into the land.**



The Sheriff represents the Sovereignty of the State and has no superior in his County.

- ▶ When a situation arises for law enforcement action it becomes the Sheriff's right and his duty to determine what the public safety and tranquility demand and to act accordingly within the law.
- ▶ Where the office of the Sheriff is a Constitutional one, the legislature has no power without constitutional amendment to diminish his official powers, or to transfer to other offices the duties which properly pertain to his office.
- ▶ However additional duties may be added to the Office of Sheriff



CAN YOU NAME SOME ADDITIONAL DUTIES THAT HAVE BEEN ADDED TO THE OFFICE OF SHERIFF?

- Issuing concealed weapons permits and other firearm laws.
- Sex Offender Registration
- Maintaining a sex offender website
- ?
- Unfunded Mandates



RCW 36.28.10

GENERAL DUTIES OF THE SHERIFF

- ▶ Shall arrest and commit to prison all persons who break the peace, or attempt to break it, and all persons guilty of public offenses
- ▶ Shall defend the county against those who, by riot or otherwise, endanger the public peace or safety
- ▶ Shall execute the process and orders of the courts of justice or judicial officers, when delivered for that purpose, according to law
- ▶ Shall execute all warrants delivered for that purpose by other public officers, according to the provisions of particular statutes;
- ▶ Shall attend the sessions of the courts of record held within the county, and obey their lawful orders or directions
- ▶ Shall keep and preserve the peace in their respective counties, and quiet and suppress all affrays, riots, unlawful assemblies and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony or breach of the peace, they may call to their aid such persons, or power of their county as they may deem necessary.
- ▶ In addition to General Duties in 36.28.010 it shall be the duty of all Sheriffs to make complaint of all violations of the criminal law, which shall come to their knowledge within their respective jurisdictions.



- ▶ Prior to the requirement of taking an oath the sheriff was required to have partaken of the sacrament in the National Church. Taking of the sacrament was replaced with the requirement to take an oath which is regarded as of equal binding effect as the taking of the sacrament.



- ▶ Common law requires that a sheriff shall take an oath before entering upon the discharge of his duties



- In the United States the Oath of Office requirement of a sheriff is “that he will support the constitution of the United States and the constitution and laws of the state wherein he is elected, and will faithfully discharge all of the duties of the Office of Sheriff to the best of his ability, concluding by calling upon God to help him.



- Washington State Law RCW 36.16.040 requires every person elected to county office shall before he enters upon the duties of his office take and subscribe an oath or affirmation that he will faithfully and impartially discharge the duties of his office to the best of his ability.



Filing of Oath RCW 36.16.060

“Every County officer, before entering upon the duties of his office, shall file his oath of office in the office of the county auditor”



OFFICIAL BOND

- In the United States Sheriffs' bonds are required either by statutory enactment or constitutional provisions.
- The Sheriff's bond is regarded as collateral security for the performance of the duties of the office and is for the protection and indemnification of all persons who may be injured by official neglect or default in performance of the duties legally imposed.



RCW 36.16.050 Official Bonds

➤ Every county official before he or she enters upon the duties of his or her office shall furnish a bond.....

➤ (7) Sheriff:

Amount to be fixed and bond approved by the proper county legislative authority at not less than \$5,000 nor more than \$50,000; surety to be a surety company authorized to do business in this State.



➤ WHO PAYS FOR THE BOND?

➤ RCW 48.28.040

The premium for bonds given by such surety insures for appointive or elective public officers.... Shall be paid by the state, political subdivision, or public body so served.

➤ Filing of Bond

Every county officer, before entering upon the duties of his office shall file his official bond in the office of the County Clerk



Office or Department?

Does it really matter if you refer to your office as the

“Sheriff’s Department”?

YES!!!



OFFICE

- “A right, and correspondent duty, to exercise public trust. A public charge of employment.... A duty and power conferred on an individual by the Governmental authority to exercise portions of the sovereign power, either in making, executing or administering Law”



DEPARTMENT

“One of the major divisions of the executive branch of the Government, a branch or division of Government Administration”

Blacks Law Dictionary



“THIS IS WHY IT MATTERS”

- ▶ The office of the Sheriff is not simply another department of County Government. Its internal operations are the sole responsibility of the Sheriff. The head of a county department is subordinate to the Board of Commissioners as a division of County Government.
- ▶ The Office of the Sheriff is a Constitutional Office having exclusive Powers and Authority. These Powers are not subject to the dictates of a Board of Commissioners. The Powers of the Office of the Sheriff have been exercised worldwide for over a millennium.
- ▶ A Sheriff's Office then is fundamentally different from a County department which derives its limited authority from whatever is delegated to it. Thus the use of “department” substitutes a term meaning subordinate unit of Government. “office” is a term that unmistakably signifies the inherent powers and sovereignty of the office of the Sheriff.
- ▶ You don't work for county government, you are part of county government.



COURTS

- Duty of sheriff as an attending officer of Court. RCW 36.28.010
 - (5) Sheriff shall attend the sessions of the courts of record held within the county, and obey their lawful orders or directions.
- Do you as the sheriff have to personally attend Court?
- **NO**, it is sufficient for the sheriff to fulfill the duty of attendance on the court by qualified deputy.



RCW 2.28.140 COURTROOMS

- ▶ If the proper authority (county commissioners) neglects to provide any superior court with rooms, furniture, fuel, lights and stationary suitable and sufficient for the transaction of its business and for the jury attending upon it. The court may order the Sheriff to do so, at the place within the county designated by law for holding such court; and the expense incurred by the sheriff in carrying such order in effect, when ascertained and ordered to be paid by the court, is a charge upon the county.



Expense of Keeping Jury RCW 4.44.10

- If, while the jury are kept together, either during the progress of the trial or after their retirement for deliberation, the court orders them to be provided with suitable and sufficient food and lodging, they shall be so provided by the sheriff, at the expense of the county.



SHERIFF'S OFFICE

➤ RCW 36.28.160 Office at County Seat

The sheriff must keep his office at the county seat of the county of which he is sheriff

➤ RCW 36.16.090 Office Space

The commissioners shall provide a suitable furnished office for the sheriff

➤ RCW 36.16.100 Office Hours

The commissioners shall by resolution prescribe the days and hours that all county offices shall be kept open for the transaction of business

- Can you keep your office open beyond that which is prescribed by the commissioners?



Duties of Retiring Sheriff

- ▶ **RCW 36.28.120 All sheriffs upon the completion of their term of office and the qualification of their successors, shall;**
- ▶ Deliver and turn over all writs and other processes in their possession which have not been executed
- ▶ Turn over all personal property held under their control by way of writs or process
- ▶ Take receipts in duplicate, one to be filed in the office from which the writ or process was issued
- ▶ deliver all official papers and property in their possession or under their control

The successor shall execute or complete the execution of all such writs and processes, and finish and complete all business turned over to them.



➤ RCW 36.16.120

Sheriff must complete business

- The sheriff shall complete the business of his office, to the time of the expiration of his term.
- Any sheriff, at the close of his term, leaves to his successor official labor to be performed, which it was his duty to perform, he shall be liable to his successor for the full value of such services.



➤ RCW 42.20.030

Refusal to surrender public office

Any sheriff who willfully exercises any of the functions of his office after his right to do so has ceased, or wrongly refuse to surrender the official seal or any books or papers appertaining to such office, upon the demand of his lawful successor, shall be be guilty of a gross misdemeanor.



Civil Service



➤ RCW 41.14.020 Civil Service for Sheriff's Offices

- (2) The county sheriff is the “appointing power” who is invested by law with power and authority to select, appoint, or employ any deputy, deputies or other necessary employees subject to civil service.

➤ RCW 41.14.070 Classified and unclassified service designated

(1) The classified civil service and provisions of this chapter shall include all deputy sheriffs and other employees of the office of sheriff in each county except the county sheriff in every county and an additional number of positions, designated the unclassified service, determined as follows:



Unclassified Staff Personnel

► Staff Personnel

1 through 10

11 through 20

21 through 50

51 through 100

101 through 250

251 through 500

501 and over

Home rule charter county with population of over 500,000 may have up to 20

► Position Appointments

2

3

4

5

6

8

10

Sheriff's who operate the 911 emergency communications system may have 1 additional position



The sheriff can make appointments up to the number of positions authorized. The appointments must include selections from the following positions:

- Undersheriff
- Inspector
- Chief Criminal Deputy
- Chief Civil Deputy
- Jail Superintendent
- Administrative Assistant or Administrative Secretary



- The sheriff must notify the Civil Service Commission of his selection.
- Other positions may be designated as exempt with both the concurrence of the Sheriff and the Civil Service Commission



➤ RCW 41.14.290

Appointment of classified employee to exempt position - right to return to classified position at end of exempt appointment.

The employee must apply to return to classified service within 30 calendar days

➤ RCW 41.14.150

Civil Service Commission has authority to certify your payroll to insure all employees are properly employed within this statute



CHAPLAINS



➤ In today's emphasis on separation of church and state, can you have chaplains associated with your office?

➤ YES! RCW 41.22.030

The legislature authorizes local law enforcement agencies to use the services of volunteer chaplains

➤ Duties of Volunteer Chaplains RCW 41.22.040

The duties of a volunteer law enforcement chaplain include counseling, training, and crisis intervention for law enforcement personnel, their families and the general public.



Fire Investigations



➔ RCW
48.48.060



- ▶ The responsibility for investigating the origin, cause, circumstances, and extent of loss of all fires shall be:
 - ▶ The fire chief in cities and towns
 - ▶ The county fire marshal or other fire official designated by the county legislative authority



- When any fire investigation indicates that the cause of the fire is determined to be suspicious or criminal in nature, the fire chief or marshal shall immediately report the results of the investigation to the local law enforcement agency and the chief of the Washington State Patrol.
- You can choose to be involved from the very start of the fire investigation.
- WSP can investigate any fire for the purpose of determining its cause, origin, and extent of loss.
- WSP can only be involved in criminal investigations if you request their assistance. If WSP is requested, they shall assist in the investigation



WA HISTORY – What number are you?

County	Established	Sheriff
➤ Benton	1905	13th
➤ Chelan	1896	21st
➤ Cowlitz	1854	34th
➤ Garfield	1882	19th
➤ Grant	1909	18th
➤ Jefferson	1852	37th
➤ Pacific	1851	37th
➤ Pend Oreille	1911	18th
➤ San Juan	1873	20th
➤ Skagit	1883	25th
➤ Stevens	1857	40 th
➤ Thurston	1854	31 st
➤ Walla Walla	1854	18 th
➤ Wahkiakum	1854	27th

