

# A PAST, PRESENT, AND FUTURE FOR THE OFFICE OF THE SHERIFF

(Based on the National Sheriff's Association booklet: The Role Of The Sheriff Past - Present - Future)

The exact date of the very first sheriff undertaking his sworn duties to protect the lives and property of those under his jurisdiction cannot be determined due to ambiguous historical findings from all over the World. All of these findings point towards some type of prototype sheriff. Many historians believe that the ancient Roman pro-consul was perhaps the first sheriff-like authority. Other historians believe that a prototype sheriff appeared first in Saxon Germany. Still more have discovered that there was an Arab chief or prince who was the descendant of Mohammed, through his daughter Fatima, and was known as the sharif - translated to mean illustrious or noble.

In 600 B.C., the Chaldean King of Babylon, Nebuchadnezzar, was noted in the Book of Daniel as being in the company of the sheriff during the setting up of the golden image. This demonstrates that the early recordings of the Holy Bible provide a 2600 year old reference of an existing sheriff. It is true; however, that clear references and recording of sheriffs are a uniquely English achievement.

Historian W. Morris wrote in his book about sheriffs that "The office of the sheriff is one of the most familiar and most useful to be found in the history of English institutions,...., with the single exception of kingship, no secular dignity now known to English-speaking people is older." Writer Walter H. Anderson, in his book, stated that "The office of the sheriff is one of antiquity" and "is the oldest law enforcement office known within the common-law system and it has always been accorded great dignity and high trust."

Thomas Jefferson wrote in his *The value of Constitutions*, that "there is no honorable law enforcement authority in Anglo-American law so ancient as that of the county sheriff whose role as a peace officer goes back at least to the time of Alfred the Great." All of these men have shown the possibility that even though there may have been sheriff like people in other cultures and times, today's sheriff is essentially a direct descendant of the English sheriffs. It is known that even the English sheriff was once referred to as a shire reeve, and perhaps it is true that the shire reeve was a descendant of these sheriff-like people of other lands.

The sheriff was created because laws needed enforcing. An interesting way to track the roots of the sheriff is to study the written laws of Kings in ancient times. One of the first Kings to do so was Lipit-Istar, the King of Isin in 2207 B.C. He developed legally binding guidelines to curb the behavior of his Sumerian subjects. A little over a hundred years later, Babylonian King Hammurabi, devised the well-known and still studied codification system affectionately called the Codes of Hammurabi. In 1500 B.C., King Thutmose III spoke of justice when appointing Justice Rekhmire. All of these scenarios point to a building up of a legal system in the Egyptian era.

Jews were eventually ordered to follow and obey the first five books of the Old Testament known as the Pentateuch, showing recorded law near the Roman era. Assyrians and Chinese governments attempted codified laws and the Code of Manu was used by India. As the Roman era was well underway, a digest of Roman law was created in 450 A.D. This was improved in 529 A.D. by Justinian. As all of these were forged, there must have been some type of enforcement by authority figures, whether the kings themselves or their armies. It may be possible that the sheriff role was merely a title of one who enforces.

Then the Magna Carta was written and signed by King John in 1215 A.D., nearly 800 years ago. The sheriffs had already existed and were known under this title. Sheriffs had been recognized as principle participants in the drama of government, seated just under the crown's barons in hierarchy. Their duties and responsibilities mostly carried over as America was established.

The English creation of the sheriff and the common law was forged through the earlier influence of morals and values from the Angles, Saxons, and the Normans. Their belief in home rule over government control spawned the establishment of the tuns (towns) that eventually became the tenths of land that banded together to fight in their wars. As the tenths banded into hundredths and small counties formed (reeves), they needed to be headed by a chief, called a gerefa. The gerefa eventually became the word reeve in the Saxon language. The gerefas and the chiefs of the smaller tenths, known as tithingmen, possessed both tribal judicial and tribal police authority. There was no government centralization until in 827 A.D. This is when Egbert, King of Wessex won the loyalty of all the people in the tribes, newly referred to as "Englishmen".

Alfred the Great created a system of freemen pledging the good behavior of their neighbor, in sort of a prototype neighborhood watch. A reeve was created to sound an alarm when criminals escaped from the early jail. This alarm was the repeated shouting of the words *hue and cry* and ironically was the ancestor of the citizen's arrest.



(The Hue and Cry, from Irene Gladwin's book: *The Sheriff*)

England continued to expand and the larger, more modern, counties formed and were called shires. The reeves put in charge of the large counties were called shire reeves in order to distinguish them from the smaller county reeves. England then became a very war torn country, there was the Norman Invasion, the fall of Hastings and the subsequent end to Saxon rule over England.

The Norman influence over England only strengthened the power of the sheriff. He became government oriented and lost his home rule ideology. As government taxed the people the sheriff took on a new responsibility to enforce taxation. Norman rule, however, was greatly abusive and faced constant rebellion from the Englishmen. In 1199 Richard the Lionhearted died and his despotic brother, John, inherited the throne and pushed the crown to its limit. His own barons and sheriffs rebelled against him and he was forced to sign the prior mentioned Magna Carta. This document became the proverbial "cornerstone" from which the British and American governments were to proliferate their power. There were at the very least, nine (9) mentions of the office of sheriff in the Magna Carta.

Discovery and conquering of new land became central to the English Crown. America was discovered and potentially named after the High Sheriff of Bristol, Richard Amerycke, by error in the reading of a voyage map (this is a recent theory that contrasts the theory of the country being named after Amerigo Vespucci). As colonies were established, the sheriff's office was copied into the local culture and law. The first such transition of the English Sheriff to American soil was in Virginia in 1634. Sheriffs were still appointed by the King and was an extension of royal authority and representative of the King. There is a record of a sheriff being elected by popular vote as early as 1651, but this was highly irregular for the rules of the era.

Unlike the latter English sheriffs who put great expense out of their pockets to perform the duty as sheriff, the American sheriff was very profitable. This was attributed to the lack of pomp and ceremony that existed in England and the need their to entertain. All men sought this highly prestigious position in the colonies. Maryland, coincidentally, became a close second in establishing the office of the sheriff in the United States.

As Colonial times continued the Sheriff faced some unique and never before experienced problems. Travel was very difficult in America as there was no infrastructure and no address system. This meant that the sheriff had to take advantage of the culture and knowing colonists attended church, would wait at the churches of those he needed to serve papers at. This was a very secular and ecclesiastical issue that caused the churches to lobby for banning sheriffs from their premises in official capacities. Despite any hard feelings, sheriffs were provided their own seats at church and they counter lobbied for laws requiring ministers to read the sheriffs' proclamations on two successive Sundays, thus still allowing them to get their man. Ironically, the sheriff became charged with the responsibility of dealing with religious non-conformists.

As the western frontier was explored, the sheriff's office also moved into establishment out west. Settlers became the targets and prey of Indians, thieves and bandits. Everyone needed to protect their gold and oil. The sheriffs of the west became very busy in a hostile environment, becoming sub-divided into two (2) categories, the quick and the dead.

Today the functions of the sheriff are influenced by the social and political climates of a modern society. People still like to elect their top law enforcement officials in their counties and many people still covet the office. Even non-law enforcement experienced citizens run for the office. The sheriff of today is still the great man of his county.

As the office of the sheriff moves into the future, there is a distinct difference from the earlier sheriffs. This is for the concern of training. The sheriff has always had to adopt to change and is perhaps the most resistant law enforcement authority to stubborn bureaucracy and being unaccustomed to change. Training is the best way to continue this trend as modern society finds new ways to commit crimes and use technology to aid them in their unlawful actions.

### **THE SHERIFF - POLITICALLY SPEAKING** [\*top\*](#)

The Sheriff offers the people under his county jurisdiction, the most effective liaison to law enforcement. When citizens have a complaint concerning some problem in their county, the Sheriff is ultimately their best remedy. Although modern times have placed more glamorous attention on local and state police, they create a myriad of problems in reality.

The Sheriff can respond faster to any citizen's complaint than any police department. This is one of the many forgotten powers of the Sheriff in the minds of the citizenry. His fast and efficient abilities for handling such concerns are derived from his constitutional foundation.

As an elected law enforcement representative, he has great political power on the direction, time spent, and discretion of any request from a constituent. This is in stark contrast to the bureaucratic red tape of the modern, contracted police authority.

### **LEGAL POWER OF THE SHERIFF** [\*top\*](#)

Today, especially in the northeast portion of the United States, there is some controversy over the legal power and authority of the modern day sheriffs. A March-April 2000 issue of *Sheriff Magazine* addressed this issue head-on and appears to be the most recent clarification of the sheriff authority. Even though the title has been altered at times within the last 1200 years, the legal authority has remained almost fully resistant to change.

Looking at a six (6) year old Pennsylvania Supreme Court case, the court held that the "constitutionally designated sheriff in the Commonwealth of Pennsylvania is a law enforcement officer who is vested with full powers and duties to stop motor vehicles, issue citations for motor vehicle violations under statutory code, and make arrests with or without warrants" (*Commonwealth of Pennsylvania vs. Leet*, 585 A.2d 1033). Sheriffs and their deputies are basically police officers. Judge Carillo, who presided over this case, even went as far as writing how "instinctively,..., we are reminded of Sherwood Forest, where the Sheriff of Nottingham was the chief law enforcement officer who possessed far-reaching powers" and "King Henry of England states to the Sheriff of Nottingham,...But look well to it, Master Sheriff, for I will have my laws obeyed by all men within my kingdom, and if thou art not able to enforce them, thou art no sheriff for me."

For many years it has been known that modern sheriffs are vested with the powers and duties possessed by their predecessors under common law. In 1941, a landmark graduate student dissertation was written by an A. Anderson and stated "While the legislature may impose additional duties upon the sheriff, where he is recognized as a constitutional officer, it cannot restrict or reduce his powers as allowed by the Constitution, or where they were recognized when the constitution was adopted." Anderson continued on to say, "The legislature may vary the duties of a constitutional office, but it may not change the duties so as to destroy the power to perform the duties of the office."

Anderson found that it was legally acceptable for state legislatures to impose upon sheriffs new duties growing out of public policy or convenience. However, the state legislatures still cannot strip the sheriffs of their "time honored and common law functions". The legislatures cannot "devolve them upon the incumbents of other offices created by legislative authority." From this, today's sheriffs have both expressed constitutional and statutory grants of authority. They also have implied authority based on their predecessors actions and can utilize it when it will aid their expressed authority.

The modern sheriffs' provinces and scope of authority can be determined by studying the modern day legislation. The sheriff has the right and duty to enforce any of this legislation as it concerns securing the peace, order, safety, and comfort of the community under his jurisdiction. In enforcing such legislation, the sheriff satisfies his constitutional obligations in enforcing the democracy's laws, protecting the lives and property of its people, and safeguarding the health and morals of the community.

As the sheriffs were appointed in the New World, they acquired the power of arrest for all offenses attempted or committed in their presence, without a warrant. Any felony committed not in their presence could also be reasonable grounds for an arrest under the ancient common law, matching the exact measure for an arrest by any police officer today with one modern day addition - articulable facts leading a reasonable police officer to believe there exists probable cause that the crime did, is, or will occur.

In conclusion, modern sheriff duties are performed by order of the people instead of by order of the King or Queen, so it is easy to see how the legal authority is politically oriented. Sheriffs can maneuver through court battles involving a challenge to their authority and come out successfully when they address the legal protections of their office concerning their constitutional obligations, and no legal system or authority in the United States can challenge it with any standing. As so, the sheriff and his deputies have retained their authority to arrest without a warrant for all crimes, however defined, committed in their presence, and for felonies not committed in their presence. These powers could not be truncated when the American legal system changed from common law to statutory law due to the verbiage of the Constitution, so the Sheriff exists as both an ancient and a modern authority.