

The Sheriff Is “Chief Law Enforcement Officer” In The County

By William Taylor Reil

We are constantly told (particularly by attorneys and judges) that the District Attorney is the “Chief Law Enforcement Officer” in the County. **But this statement is simply not true.**

The District Attorney (DA) is the **chief prosecutor** in the County. Though elected, the DA: must be an attorney; holds the “Office of attorney at law” (Title 42, Section 2521); is an officer of the courts and reports to the State Supreme Court. (Article V, Section 10 (c) of the “1968 Pennsylvania Constitution”); cannot arrest anyone; etc. The District Attorney is clearly a member of the Judicial Branch of government. **If there is any “separation of powers” today, the DA could not possibly be part of the Executive Branch of a constitutional republic.**

The Sheriff is the lawful Chief Executive Officer and highest Peace Officer of the entire County in which he or she was elected. Unlike the State Police and Municipal Police, the Sheriff reports directly to the Citizens of the County. In today’s term, the Sheriff is the “Chief Law Enforcement Officer” (CLEO) of the County. The duties, responsibilities and authorities of the County Sheriff (a constitutional officer) are, at a minimum, the same as they were when the State Constitution was originally written. The duties, responsibilities and/or authorities of the Sheriff cannot be diminished by those in the legislature or the courts of the State or of the County. Only the Citizens of this Commonwealth, by a constitutional amendment (that is lawfully done) can diminish the duties, responsibilities and/or authorities of the County Sheriff. These facts, and many more, were true and recognized in Pennsylvania long before it became a State on September 28, 1776 and lawfully remain true today.

In support of the statements presented herein above, consider the following relevant excerpts from: A Treatise on the Law of Sheriffs, Coroners and Constables with Forms, written by Walter H. Anderson, LL.B., LL, D., in 1941.

Volume I, Chapter II:

Section 42. Powers and Duties of Sheriff Implied from Name and Nature of His Office. – A sheriff is an officer of great antiquity, dignity, trust and authority. He was chief officer to the King within his county; no suit began, no process was served, but by the sheriff. He was to return indifferent juries for the trial of men’s lives, liberties, lands, goods, etc. At the end of suits he was and still is required to make execution which is the life and fruit of the law. So it is seen that original process moved and was directed to the sheriff, subsequent proceedings were circulated in him and were at last finished and completed by him. And if execution be the life of the law, as it is alleged to be, it seems (as one says) to be seated in the sheriff as in the heart which is *primum vivens* and *ultimum moriens*. The sheriff is also the principle conservator of the peace within the county which is the life of the commonwealth.* The powers and duties of the sheriff as implied from the name and nature of his office are still the same today as they were at common law, except, insofar as it has been modified by constitutional and statutory provisions.* He is still an officer of the court and subject to its orders and directions.* The sheriff is still made responsible as conservator of the peace and protector of society against vice and crime.*

Section 43. Rights of the Sheriff as Constitutional Officer. – Where the sheriff is named in the Constitution, his duties are the same as they were at the time the Constitution was adopted.* Where the office of sheriff is named as a constitutional officer, the people intended that those officers should exercise the powers and perform the duties then recognized as appertaining to the respective offices which they were to hold. This thought

is well expressed in an early Wisconsin case. (State ex, rel. Kennedy v. Brunst, 26 Wis. 412, 7 Am. Rep. 84) “Now it is quite true that the constitution nowhere defines what powers, rights and duties shall attach or belong to the office of sheriff. But there can be no doubt that the framers of the Constitution had reference to the office with those generally recognized legal duties and functions belonging to it in this country, and in the territory, when the Constitution was adopted.”* 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 as they were recognized when the Constitution was adopted.*

Section 44. The Sheriff Essentially a Common Law Officer. – From the very title and by virtue of occupying the office of sheriff, it carries with it all the common law powers and duties, except as modified by the State Constitutions and by statutes.* The sheriff is the chief law enforcement officer in the county today even as he was at common law. His jurisdiction is co-extensive within the county, including all municipalities and townships.* Where the State constitution provides for the election of that officer without prescribing in express conditions the duties which shall attach to the office, it is presumed that the duties are those attaching to the office of common law.*

Section 50. Additional Duties Required of the Sheriff by Statute. – As has already been seen, where the office of sheriff is a constitutional one, the legislature has no power without a constitutional amendment to diminish his official powers, or to transfer to other officers the duties which properly pertain to his office. However, additional duties may be added, and often are, to the office of sheriff, and frequently when such is done, additional bonds are required as herein after seen.

Note: * The court decision citation is given in the original text, but is omitted here in the interest of time and space.

Source: This information is taken verbatim from: A Treatise on the Law of Sheriffs, Coroners and Constables with Forms, Vol. 1 of 2; by Walter H. Anderson, LL.B., LL, D.; Published by: Herbert D. Howard, 1941 (Unforgivably these books are no longer in print.) (There are many more similar historical sources that prove the facts and law presented.)

Some may say that there is very little stated in the Constitution of Pennsylvania about Sheriffs. While this is true, at the time the Constitution was written in 1776, everyone clearly understood the duties, responsibilities and authorities of Sheriffs, therefore it was not necessary to include a lengthy enumeration of their duties in the Constitutions. The office of the Sheriff dates back to about 500 AD in England and was established in Pennsylvania and the other colonies in America from the time they were created. The constitutional offices of Sheriffs, Coroners, and Constables were clearly established in the first Constitution of Pennsylvania on September 28, 1776 and continue to this day.

Unfortunately, certain attorneys, judges, justices and professors of law (and others) have been unlawfully working to eliminate, or at least minimize, the Office of the Sheriff and/or their duties, responsibilities and authorities since the “War between the States”. However, as proven herein above, any attempt to do so without a lawful constitutional amendment is unconstitutional and thus null and void from the time that the alleged change was done. The Sheriff is still the Chief Executive Officer and highest Peace Officer in his or her County. The Sheriff works directly for the Citizens of the County.

“All laws which are repugnant to the Constitution are null and void.”

[Marbury vs. Madison, 5 US (2 Cranch) 137, 174,176 (1803)]