

Fact Sheet: Sheriffs in Illinois

What is a sheriff? What are the sheriff's duties?¹

A sheriff is the chief law enforcement officer for a county. The Illinois constitution requires each county to elect a sheriff for four-year terms.² To be eligible for the office of the sheriff under Illinois law, a person must be 1) a U.S. citizen, 2) a resident of the county for at least one year, 3) not be convicted of a felony, and 4) have a certificate demonstrating successful completion of the Minimum Standards Basic Law Enforcement Officers Training Course or a substantially similar training program.³

The Illinois constitution gives county officers, including sheriffs, “those duties, powers and functions provided by law and those provided by county ordinance,” as well as “the duties, powers or functions derived from common law or historical precedent unless altered by law or county ordinance.”⁴ Under state law, Illinois sheriffs must:

- Keep and maintain an office at the county seat;
- Serve, execute, and return “warrants, process, orders and judgments” within the county;⁵
- Act as custodian of county courthouses and jails;⁶
- Act as the “conservator of the peace in his or her county, and shall prevent crime and maintain the safety and order of the citizens of that county”;
- Arrest offenders “and cause them to be brought before the proper court for trial or examination”;⁷ and
- As supervisor of safety, enforce state and municipal traffic safety laws.⁸

What is the relationship between sheriffs and other law enforcement such as local police departments?

In Illinois, sheriffs have jurisdiction across the county in which they are elected.⁹ County sheriffs may provide primary law enforcement services for unincorporated areas of their counties, assist municipalities within their jurisdictions who have their own local police

¹ This fact sheet catalogs the relevant Illinois laws related to sheriffs' powers. It does not provide legal advice, and more research into the interpretation of these laws in a specific context or the interaction with other laws may be required. The position of sheriff existed prior to the founding of the United States and pre-dates the constitutions of many states; therefore, many of the original laws governing sheriffs may seem outdated and inconsistent with more modern rules governing the powers of law enforcement and the preservation of civil rights.

² [Ill. Const. art. VII, § 4\(c\)](#).

³ [55 Ill. Comp. Stat. § 5/3-6001.5](#).

⁴ [Ill. Const. art. VII, § 4\(d\)](#); see also *People ex rel. Davis v. Nellis*, 94 N.E. 165, 169 (1911) (citing *Dahnke v. People*, 48 N.E. 137 (1897)) (sheriff “may exercise the powers of a sheriff at common law”).

⁵ [55 Ill. Comp. Stat. §§ 5/3-6019](#).

⁶ [55 Ill. Comp. Stat. §§ 5/3-6017, -6023](#).

⁷ [Id. § 5/3-6021](#).

⁸ [Id. §§ 5/3-6035, -6036](#).

⁹ [Id. § 5/3-6019, -6021](#).

departments, and contract with municipalities in their jurisdictions to provide primary law enforcement services for the municipality.¹⁰

Under Illinois law, the sheriff in each county that has more than one million residents shall maintain a county police department.¹¹ Currently, Cook County is the only county that meets this requirement. The Cook County Sheriff's Police Department operates independently from the Chicago Police Department, largely focused on providing police services to the unincorporated areas of the County,¹² but it cooperates with the Chicago Police Department in particular areas of law enforcement within Chicago's city limits.¹³ By contrast, the Illinois State Police have statewide jurisdiction.¹⁴

Can a sheriff deputize private individuals or summon a posse to assist in law enforcement duties? What are the limitations on this power?

In Illinois, sheriffs have the power to summon a "posse" of private individuals to assist them. Sheriffs may call to their aid "any person or the power of the county" when needed "[t]o keep the peace, prevent crime, or to execute any warrant, process, order or judgment."¹⁵ "A person summoned by the sheriff exercises the same power as the sheriff" and is subject to the same limits on their authority.¹⁶

In addition, a county sheriff "may, with the advice and consent of the county board, appoint auxiliary deputies in such number as the county board shall . . . deem necessary," although that number cannot be increased if "vacancies exist within the certified ranks of the department."¹⁷ Auxiliary deputies are "subject to the direction and control of the sheriff" in performing their duties and may be directed by the sheriff to "aid or direct traffic within the county, to aid in control of natural or human made disasters, [or] to aid in case of civil disorder." Auxiliary deputies must wear identification symbols "distinct from those used by members of the regular county police department or regular deputies," and they are not permitted to "carry firearms, except with the permission of the sheriff, and only while in uniform and in the performance of their assigned duties." Before serving as an auxiliary deputy, individuals must be trained "in the use of weapons and other police procedures," as deemed appropriate by the sheriff. Auxiliary deputies also must be residents of the county in which they are serving, must have their fingerprints taken, and must not have been convicted of a felony or "other crime involving moral turpitude."¹⁸ Sheriffs are liable for the neglect or omission of duties of their deputies and auxiliary deputies "in the same manner as for [their] own personal neglect or omission" and may also be liable for deputies' intentional misconduct under common law principles.¹⁹

¹⁰ See, e.g., About Us, Champaign County Sheriff's Office, <https://www.co.champaign.il.us/sheriff> (last visited Jan. 29, 2024).

¹¹ *Id.* § 5/3-7001.

¹² *Sheriff's Police*, Cook County, <https://www.cookcountysheriffil.gov/departments/c-c-s-p-d/>.

¹³ See, e.g., Mugo Odigwe & Suzanne Le Mignot, "Absolutely going to make a difference": Cook Co. Sheriff's Office Opens North River Command Post, CBS News Chicago (Apr. 27, 2022).

¹⁴ [20 Ill. Comp. Stat. 2605/2605-200](#).

¹⁵ [55 Ill. Comp. Stat. § 5/3-6022](#).

¹⁶ *People v. DeBlicke*, 537 N.E.2d 388 (Ill. App. Div. 1989).

¹⁷ [55 Ill. Comp. Stat. § 5/3-6012](#).

¹⁸ *Id.* § 5/3-6013.

¹⁹ [Id. § 5/3-6016; see *Brown v. King*, 767 N.E.2d 357 \(Ill. App. Div. 2001\) \(discussing disagreement on this point\).](#)

How can a sheriff be removed from office?

The Illinois constitution establishes that the office of the sheriff cannot be eliminated nor can the terms of office and manner of selection be changed by law.²⁰ The constitution does not appear to establish how a sheriff may be removed from office, leaving the power to determine the means of removal with the state legislature.²¹ State law provides that a sheriff may be removed for allowing a person in their custody to be lynched.²² Moreover, pursuant to the Illinois Election Code, an elected office, including the office of the sheriff, becomes vacant upon the official's "conviction of an infamous crime, or of any offense involving a violation of official oath."²³

What is the "constitutional sheriffs" movement? Are there sheriffs in Illinois who are part of this movement?

The "constitutional sheriffs" movement claims that "[t]he law enforcement powers held by the sheriff supersede those of any agent, officer, elected official or employee from any level of government when in the jurisdiction of the county."²⁴ So-called "constitutional sheriffs" assert that they have the power to decide the constitutionality of the laws they are entrusted with enforcing and to refuse to enforce any law that they believe is unconstitutional. Although only a small fraction of the nation's sheriffs is part of the movement, in recent years they have refused to enforce a host of public safety laws, from COVID-19-related mask mandates to state and federal gun laws, and they have affirmatively sought to frustrate federal land management and other government programs. For further information about the "constitutional sheriffs" movement, please see [ICAP and States United Democracy Center's Fact Sheet](#).²⁵

There is some indication that the "constitutional sheriffs" movement is attempting to make inroads in Illinois. Recent media coverage related to "constitutional sheriffs" in Illinois includes:

- ["The 'constitutional sheriff' movement comes to Illinois," The Trace \(Mar. 21, 2023\)](#)
- ["This may be why so many Illinois sheriffs are opposed to enforcing state's new gun law," Chicago Tribune \(Mar. 20, 2023\)](#)
- ["Far-right 'constitutional sheriffs' group launches effort to infiltrate Illinois law enforcement, Illinois Eagle \(Feb. 27, 2023\)](#)
- ["Sheriffs who see themselves as ultimate defenders of the Constitution are especially worried about gun rights," The Conversation \(Jan. 30, 2023\)](#)
- ["At least 74 Illinois sheriff's departments vow to defy state assault weapons ban," ABC News \(Jan. 13, 2023\)](#)
- ["Inside the 'constitutional sheriff' movement," NPR Illinois \(Oct. 22, 2022\)](#)
- ["Illinois sheriff refuses to enforce updated 'stay at home' order," mystateline.com \(Apr. 25, 2020\)](#)

²⁰ Ill. Const. art VII, § 4(c).

²¹ *People ex rel. Iddings v. Dreher*, 134 N.E. 22, 24 (Ill. 1922).

²² *Id.* § 5/25-6.

²³ *Id.* § 5/25-2.

²⁴ Const. Sheriffs & Peace Officers Ass'n, *About CSPOA*, CSPOA, <https://cspoa.org/about/> (last visited Oct. 15, 2023).

²⁵ Institute for Constitutional Advocacy and Protection & States United Democracy Center, *Fact Sheet: "Constitutional Sheriffs" and Elections*, <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2022/09/Constitutional-Sheriffs-Fact-Sheet.pdf>.

Do sheriffs in Illinois have any specific election administration authority? Who has authority for election administration in Illinois?

Recently, the Constitutional Sheriffs and Peace Officers Association (CSPOA), an organization which claims to represent “constitutional sheriffs” nationwide, has called on sheriffs to investigate disproven claims of fraud tied to the 2020 election and to insert themselves into election administration going forward.²⁶ A second group, True the Vote, has echoed this call, distributing a “Sheriff’s Toolkit” in an attempt to persuade sheriffs to intervene in local election administration.²⁷

Under Illinois law, sheriffs play only a limited role in elections, subject to the direction of election officials and the courts. The Illinois Election Code allows the county clerk to ask law enforcement to assist with protective voter registration but these officers “shall be stationed in the place ... of registration in such manner as the County Clerk shall direct, and during such assignment shall be under the direction and control of the County Clerk.”²⁸

In addition, ballot boxes must be kept in public view for the entirety of the election, and sheriffs are empowered to remove obstructions on request or on their own initiative.²⁹ In these circumstances, a court may “issue a warrant to the sheriff of the county to remove such obstruction as a nuisance; and in executing such warrant he may call any person to his assistance, and no other officer of the law or private individual shall interpose or interfere with such removal.”³⁰

Otherwise, Illinois law empowers a civilian board to oversee elections.³¹ In Illinois, the State Board of Elections has “general supervision over the administration of the registration and election laws throughout the State.”³² The State Board of Elections is responsible for reviewing and inspecting “procedures and records relating to conduct of elections and registration, and “to report violations of election laws to the appropriate State’s Attorney or the Attorney General,” among other duties.³³ Elections in Illinois “are administered locally by the state’s 108 election authorities”: “the county clerks in 101 counties,” one county election commissions, and six municipal election commissions.³⁴

Have sheriffs in Illinois expressed interest in overseeing or investigating election-related activity?

There is no current information as whether or to what extent sheriffs intend to intervene in or assert authority over elections in Illinois.

²⁶ Const. Sheriffs & Peace Officers Ass’n, *CSPOA Strongly Encourages Sheriffs and Local Law Enforcement to Investigate Alleged Election Fraud in Their Jurisdictions*, CSPOA (May 24, 2022), <https://cspoa.org/elections/>.

²⁷ True the Vote, *Sheriff’s Toolkit*, <https://www.truethevote.org/sheriffs-toolkit/> (last visited Nov. 2, 2023).

²⁸ [10 Ill. Comp. Stat. § 5/5-3](#).

²⁹ [Id. § 5/18-3](#).

³⁰ [Id.](#)

³¹ Elections in Illinois are governed by [10 Ill. Comp. Stat. 5/1-5/30](#).

³² [10 Ill. Comp. Stat. 5/1A-1](#).

³³ [Id. § 5/1A-8](#).

³⁴ *Election Authorities*, Ill. State Bd. of Elections, <https://www.elections.il.gov/electionoperations/electionauthorities.aspx> (last visited Oct. 15, 2023).

What do I do if I think a county sheriff is acting outside their authority?

Election officials and Illinois residents who are concerned about overreach by a sheriff should seek clarification of the sheriff's role and authority from the county or city attorney, local district attorney, or Illinois attorney general. In cases of overreach, attorneys (state, county, municipal, or district) should intervene using legal options available under state law to protect the rule of law and the right to vote.