

Fact Sheet: Sheriffs in Michigan

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

A sheriff is generally the chief elected law enforcement officer for a county. In Michigan, “[t]he office of sheriff is a constitutional office with duties and powers provided by law.”² Michigan’s constitution requires that each county elect a sheriff for four-year terms.³ The constitution further provides that the sheriff must “hold their principal offices at the county seat,” “shall not hold any other office except in civil defense,” and may be required to pay a security to assure the people of the county that he or she will uphold the duties of the office.⁴ Although the constitution says that the county “shall never be” financially “responsible for [the sheriff’s] acts,”⁵ that provision reflects an earlier system in which sheriffs were compensated through fees. Michigan now provides for counties to pay salaries to sheriffs, and counties have assumed liability for the actions of sheriffs as they would any other employee.⁶

The duties of Michigan sheriffs come from two sources: common law and laws passed by the Michigan legislature.⁷ At common law, the duties of the sheriff included “the execution of the orders, judgments and process of the courts; the preservation of the peace; the arrest and detention of persons charged with the commission of a public offence; the service of papers in actions, and the like.”⁸ Michigan law enumerates additional duties, including:

- Controlling the county jails and the prisoners within them;⁹
- Providing various services on county roads, including patrolling and monitoring traffic violations, enforcing state criminal laws, investigating accidents involving motor vehicles, and providing emergency assistance to people on or near a county road;¹⁰
- Recovering drowned bodies outside of the corporate limits of a city;¹¹ and
- Collecting DNA samples as ordered by a court.¹²

¹ This fact sheet catalogs the relevant Michigan 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States and pre-dates the constitutions of many states; therefore, many of the original laws governing sheriffs may seem outdated and inconsistent with more modern rules governing the powers of law enforcement and the preservation of civil rights.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 *Brownstown Twp. v. Wayne County*, 242 N.W.2d 538, 539 (Mich. Ct. App. 1976).

³ [Mich. Const. art. VII, § 4.](#)

⁴ [Id. art. VII, §§ 5, 6.](#)

⁵ [Id. art. VII, § 6.](#)

⁶ [See Mich. Comp Laws §§ 45.401, 45.407.](#)

⁷ *Brownstown Twp. v. Wayne Cnty.*, 242 N.W.2d 538, 539–40 (Mich. Ct. App. 1976).

⁸ *White v. East Saginaw*, 6 N.W. 86, 88 (Mich. 1880).

⁹ [Mich. Comp. Laws § 51.75.](#)

¹⁰ [Id. § 51.76\(2\)\(a\)-\(d\).](#)

¹¹ [Id. § 51.301.](#)

¹² [Id. § 28.176\(4\).](#)

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

Sheriffs' powers overlap with those of the Michigan State Police and local police departments. While sheriffs have jurisdiction within their counties, the Michigan State Police has statewide jurisdiction. The State Police's duties include acting as conservators of the peace,¹³ patrolling state highways,¹⁴ maintaining a sex-offender registry,¹⁵ and executing criminal and civil process in actions in which the state is a party.¹⁶

Local police departments may be established by cities and municipalities in the state and have "full power to enforce township ordinances and state laws" within the boundaries of the municipality.¹⁷ The roles of local police departments include investigating crimes, patrolling roads, and responding to citizen calls.¹⁸ A township may also choose not to have its own police force and may instead "appropriate funds and call upon the sheriff of the county in which the township is located, the department of state police, or another law enforcement agency to provide special police protection for the township."¹⁹ Where localities have their own police departments, they generally coordinate primary responsibility for various law enforcement functions with the county sheriffs' office through mutual agreements.

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

In Michigan, sheriffs have the power to designate private individuals as special deputies to assist with certain limited functions. A sheriff may deputize these individuals "in writing, to do particular acts," which can include aiding the sheriff in serving process, preserving the peace, and apprehending felons and those who breach the peace.²⁰ The authority of the sheriffs' deputies cannot exceed that of the sheriff. In addition, "[i]n times of emergency the sheriff, upon order of the circuit court for the county, made upon the petition of the sheriff or prosecuting attorney of the county, showing the necessity therefor, may appoint for such day or days as may be required, 1 or more additional deputies."²¹

How can a sheriff be removed from office?

Once elected, a sheriff can only be removed from office by a removal order issued by the governor or a recall election. The Michigan constitution allows the governor to "remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer," including a county sheriff, and requires the governor to "report the reasons for such removal or suspension to the legislature."²²

¹³ [Mich. Comp. Laws § 28.6\(1\)](#).

¹⁴ [Id. § 28.4\(2\)](#).

¹⁵ *Sex Offender Registry*, Mich. State Police, <https://www.michigan.gov/msp/services/sex-offender-reg> (last accessed Oct. 18, 2023).

¹⁶ [Mich. Comp. Laws § 28.6\(2\)](#).

¹⁷ [Id. § 41.181\(1\)](#); see also *Law Enforcement Agencies in Michigan*, Mackinac Center for Pub. Pol'y (Feb. 27, 2019), <https://www.mackinac.org/26331>.

¹⁸ See *Law Enforcement Agencies in Michigan*, *supra* note 17.

¹⁹ [Mich. Comp. Laws § 41.181\(1\)](#).

²⁰ [Id. §§ 51.70, 600.584](#).

²¹ [Id. § 45.406](#).

²² [Mich. Const. art. V, § 10](#).

In addition, Michigan law provides that “[t]he governor may remove any and all county officers” if an officer is “guilty of official misconduct, or of wilful [sic] neglect of duty,” or certain other misconduct.²³

Moreover, any elected officer, including a sheriff, “is subject to recall by the voters of the electoral district in which the officer is elected.” A recall petition may be filed only during the middle two years of a sheriff’s four-year term; it cannot be filed against a sheriff until they have served for at least one year of their “current term” or during the last year of an officer’s term of office.²⁴

What is the “constitutional sheriffs” movement? Are there sheriffs in Michigan 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.”²⁵ 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](#).²⁶

The “constitutional sheriffs” movement appears to have made inroads in Michigan. Recent media coverage related to “constitutional sheriffs” in Michigan includes:

- [“Right wing sheriffs group challenging federal law is gaining acceptance around the country,” Detroit Free Press](#) (Aug 22, 2023, updated Aug. 24, 2023)
- [In Michigan, some counties splash back against the blue wave, Detroit Metro Times](#) (May 1, 2023)
- [“Michigan’s constitutional sheriff problem,” Daily Kos](#) (Apr. 8, 2023)
- [“Far right ‘constitutional sheriffs’ now turn to hunting ‘fraud’ in midterm elections,” Salon](#) (Sept. 20, 2022)
- [“Inside one far right sheriff’s crusade to prove Trump’s bogus voter fraud claims,” Reuters](#) (July 29, 2022)
- [“2020 election deniers seek out powerful allies: county sheriffs,” New York Times](#) (July 25, 2022, updated Aug. 2, 2022)
- [“Constitutional sheriffs’ ask Michigan police to stand against Biden, COVID-19 orders,” MLive.com](#) (Feb. 8, 2021)
- [“Michigan’s ‘constitutional sheriffs’ vow to keep voters safe at polls,” Bridge Michigan](#) (Oct. 14, 2020)
- [“Michigan sheriff: Militia suspects may have merely been attempting to ‘arrest’ Whitmer,” Forbes](#) (Oct. 9, 2020)

²³ [Mich. Comp. Laws § 168.207](#).

²⁴ [Id. § 168.951](#).

²⁵ Const. Sheriffs & Peace Officers Ass’n, *About CSPOA*, CSPOA, <https://cspoa.org/about/> (last visited Oct. 18, 2023).

²⁶ 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>.

- [“Michigan sheriff says Gov. Whitmer’s stay-at-home order is akin to mass arrest.” MLive.com](#) (May 18, 2020, updated Mar. 6, 2023)
- [“I’m not afraid of scrutiny or legal action’: Brighton area gym reopens despite Whitmer order,” Detroit Free Press](#) (May 11, 2020)

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

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.²⁷ 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.²⁸

Sheriffs in Michigan do not appear to have any specific authority with respect to election administration. The secretary of state, as the chief election officer, has primary authority over election administration, including “supervisory control over local election officials.”²⁹ Moreover, city and township clerks “maintain the voter registration records” and “are responsible for administering all federal, state, county, city, township, and village elections” within their jurisdictions.³⁰

In Michigan, if a township or city clerk has “knowledge that there is a probable illegal or fraudulent [election] registration in the township or city,” the clerk then “has the power and duty to make a full investigation of the facts concerning the registration and to ascertain whether any name has been illegally or fraudulently registered.”³¹ The clerk is also “authorized and empowered to call upon the police department of the city or the sheriff of the county in which the city is located, or both, to assist in making the investigation, and the police department and the sheriff are required to render assistance if the clerk makes a request for assistance, and to furnish the clerk at his or her request with all available assistance in making the investigation.”³²

²⁷ 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/> (last visited Nov. 1, 2023).

²⁸ True the Vote, *Sheriff’s Toolkit*, <https://www.truethethevote.org/sheriffs-toolkit/> (last visited Nov. 2, 2023).

²⁹ [Mich. Comp. Laws § 168.21](#).

³⁰ Michigan Bureau of Elections, *Structure of Michigan’s Elections System*, in *Election Officials’ Manual* 1, 5 (2019), https://www.michigan.gov/-/media/Project/Websites/sos/01mcalpine/I_Structure_of_MI_Elections_System.pdf?rev=8ade2e2574f140debc8c28af9ca878dc.

³¹ [Mich. Comp. Laws § 168.520](#).

³² *Id.*

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

Some sheriffs in Michigan have expressed interest in overseeing or investigating election-related activity.³³ Barry County Sheriff Dar Leaf was investigated by state officials for allegedly illegally breaching vote tabulator machines in Michigan in the course of his attempts to investigate claims of voter fraud in the 2020 election, but he was not ultimately charged with a crime.³⁴

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

Election officials and residents who are concerned about investigative overreach by a sheriff should seek clarification of the sheriff's role and authority from the county or city attorney, local district attorney, or Michigan attorney general. In cases of overreach, attorneys (state, county, municipal, or district) should intervene to curtail such overreach using legal options available under state law, in order to protect the rule of law and the right to vote. And, in appropriate circumstances, as noted above, there are procedures available for seeking to remove, suspend, or recall a sheriff.

This Fact Sheet was prepared by the Institute for Constitutional Advocacy and Protection (ICAP) at Georgetown University Law Center in January 2024. ICAP's mission is to use the power of the courts to defend American constitutional rights and values. Visit us at www.law.georgetown.edu/icap/. Contact us at reachICAP@georgetown.edu.

³³ See David Neiwert, 'Constitutional Sheriffs' Want to Be Able to Seize Dominion Voting Machines for 'Investigation' Daily Kos (June 24, 2022), <https://www.dailykos.com/stories/2022/6/24/2106150/--Constitutional-sheriffs-want-to-be-able-to-seize-Dominion-voting-machines-for-investigation>.

³⁴ See Patrick Marley & Aaron Schaffer, *More Charges Filed in Michigan Voting Machine Investigation*, Wash. Post (Aug. 3, 2023), <https://www.washingtonpost.com/national-security/2023/08/03/michigan-voting-machine-investigation/>.