

Fact Sheet: Sheriffs in Ohio

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

A sheriff is generally the chief elected law enforcement officer for a county. Unlike in many states, the Ohio Constitution does not require, or even reference, sheriffs but largely leaves the governance of counties to the state legislature.² The Constitution provides that residents of a county may “frame and adopt or amend” a county charter, which sets up the form of the county government and creates county officers.³ If a charter provides for a sheriff, Ohio law provides for a term of four years, and sets out their duties, which are to:

- Preserve the public peace;
- Cause any person guilty of a breach of the peace within the sheriff's knowledge or view to appear before a court and pledge to keep the peace by posting a bond, or jail such person if they refuse to do so;
- Execute all warrants, writs, and other process directed to the sheriff by lawful state;
- Provide security for county courts;
- Call to the sheriff's aid such persons or power of the county as is necessary;
- Maintain charge of the courthouse under the direction and control of the board of county commissioners; and
- Participate, as the director of an organized crime task force or as a member of the investigatory staff of such a task force, in an investigation of organized criminal activity in any county or counties in Ohio.⁴

Additionally, sheriffs “shall arrest and detain, until a warrant can be obtained, a person found violating” state or local law within their jurisdiction.⁵ Sheriffs also have the authority to appoint deputy sheriffs.⁶ A sheriff does not have to “patrol his county as a policeman” or “ferret out crime as a detective,” but they must preserve the public peace.⁷

¹ This fact sheet catalogs the relevant Ohio 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States and pre-dates the constitutions of many states; therefore, many of the original laws governing sheriffs may seem outdated and inconsistent with more modern rules governing the powers of law enforcement and the preservation of civil rights.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 [Ohio Const. art. X, § 3.](#)

³ [Id.](#)

⁴ [Ohio Rev. Code Ann. §§ 311.01\(A\), 311.07\(A\).](#)

⁵ [Id. § 2935.03.](#)

⁶ [Id. § 311.04\(B\)\(1\).](#)

⁷ *In re Sulzmann*, 183 N.E. 531, 532 (Ohio 1932).

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

Sheriffs in Ohio have general law enforcement powers within their county to preserve the public peace and to arrest and detain any person found violating the law.⁸ A county sheriff's office and a municipal police department share jurisdiction under state law where a county and municipality overlap. The sheriff's office and the police department may jointly decide which entity should initially respond to calls requesting law enforcement services.⁹

Sheriffs may enter into contracts with municipalities, townships, and other entities pursuant to which the sheriff performs any police function the entity itself is authorized to perform.¹⁰ Many of Ohio's rural communities cannot afford police services and opt to contract with the county sheriff's office for law enforcement services.¹¹ Sheriffs may also call upon the sheriff of any other county, mayor of any municipality, or board chairperson of any township to furnish law enforcement or fire protection personnel and appropriate equipment as "necessary to preserve the public peace and protect persons and property in the requesting sheriff's county."¹²

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

In Ohio, sheriffs have the authority to enlist the assistance of private individuals as necessary to address a temporary emergency situation.¹³ The sheriff has "the power to determine when such a necessity exists."¹⁴ The authority of the sheriffs' deputies cannot exceed that of the sheriff. Sheriff may be held liable for the misconduct of their deputies where the sheriff ordered, had prior knowledge of, acted in reckless disregard of, participated in, or ratified the misconduct.¹⁵

How can the sheriff be removed from office?

Sheriffs may be removed from office if found guilty of misconduct. Misconduct includes willful and flagrant exercises of "authority or power not authorized by law," refusal or willful neglect "to enforce the law or to perform any official duty imposed . . . by law," or "gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance."¹⁶

The governor or qualified voters may initiate removal proceedings by filing a complaint with the court of common pleas of the county where the sheriff resides. A voter's complaint must outline the charge and include signatures of qualified voters making up at least 15 percent of total votes cast in the sheriff's county in the most recent election for governor. The removal proceedings are tried by a judge unless the sheriff demands a jury trial. The court may suspend the officer

⁸ [Id. §§ 311.07\(A\), 2935.03\(A\)\(1\)](#).

⁹ [Ohio Att'y Gen., Op. No. 2009-008 \(March 9, 2009\)](#) (requiring the sheriff's office and police department "to provide law enforcement assistance through the entire territory of the county and municipal corporation, respectively").

¹⁰ See [Ohio Rev. Code Ann. § 311.29\(B\)](#).

¹¹ Buckeye State Sheriff's Ass'n, *Duties of Ohio Sheriffs*, <https://buckeyesheriffs.org/ohio-sheriffs/duties-of-ohio-sheriffs/> (last visited Oct. 15, 2023).

¹² [Ohio Rev. Code Ann. § 311.07\(B\)](#).

¹³ [Id. § 311.07\(A\)](#).

¹⁴ *Mitchell v. Indus. Comm'n of Ohio*, 13 N.E.2d 736, 737 (Ohio Ct. App. 1936).

¹⁵ [Ohio Rev. Code Ann. § 311.05](#).

¹⁶ See [Ohio Rev. Code Ann. § 3.07](#).

pending the hearing.¹⁷ The sheriff may appeal legal questions decided in the removal decision.¹⁸ In addition, if a sheriff is charged with a felony in state or federal court, Ohio law provides procedures for suspending a sheriff, whereby the sheriff retains his title and continues to receive compensation but cannot exercise any right, power, or responsibility of the office.¹⁹ In 2019, for example, former Pike County Sheriff Charles Reader agreed to a provisional suspension while facing charges of theft in office and conflict of interest, among others.²⁰

What is the “constitutional sheriffs” movement? Are there sheriffs in Ohio 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.”²¹ 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](#).²²

The “constitutional sheriffs” movement does not appear to have made inroads in Ohio.

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

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.²³ 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.²⁴

Sheriffs in Ohio do not appear to have any specific authority with respect to elections.²⁵ Their role is explicitly subordinate to other civilian authorities. Sheriffs and other law enforcement

¹⁷ *Id.* § 3.08.

¹⁸ See *id.* § 3.09.

¹⁹ See *id.* § 3.16(B) & (C).

²⁰ Matt Lucas, *Pike County Sheriff Suspended from Office*, *Circleville Herald* (July 18, 2019), https://www.circlevilleherald.com/logan/news/pike-county-sheriff-suspended-from-office/article_e8de2ba4-f02b-5224-9f2b-d0107d369ea7.html.

²¹ Const. Sheriffs & Peace Officers Ass’n, *About CSPOA*, CSPOA, <https://cspoa.org/about/> (last visited Oct. 15, 2023).

²² 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>.

²³ 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/>.

²⁴ True the Vote, *Sheriff’s Toolkit*, <https://www.truethethevote.org/sheriffs-toolkit/> (last visited Nov. 2, 2023).

²⁵ Elections in Ohio are governed by [Ohio Const. art. V](#) and [Ohio Rev. Code Ann. § 35](#).

officers in Ohio must “obey and aid” the lawful orders of election officials at the polls.²⁶ If requested by the board of elections or secretary of state, the sheriff should provide their service at any polling places that the board or secretary deems necessary; such officers are granted access to the polling place.²⁷

The secretary of state, as the chief election officer of the state, has primary authority for administering elections.²⁸ The secretary of state is responsible for investigating election fraud and irregularities and reporting violations to the attorney general or the prosecuting attorney.²⁹ The secretary of state appoints four members to form the local board of elections for each county, who serve four-year terms and are responsible for the administration of elections within their county.³⁰ The local board of elections is empowered to investigate “irregularities, nonperformance of duties, or violations” of the election code. The board of elections must report the facts discovered through any investigation to the prosecuting attorney or secretary of state.³¹

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

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

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

Election officials and Ohio 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 Ohio attorney general. In cases of overreach, attorneys (state, county, municipal, or district) should intervene using legal options available under state law in order to protect the rule of law and the right to vote. In Ohio, tips regarding public corruption can be filed with the Attorney General.³² And, in appropriate circumstances, as noted above, there are procedures available for seeking to remove or suspend 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.

²⁶ [Ohio Rev. Code Ann. § 3501.33](#).

²⁷ [Id. § 3501.34](#).

²⁸ *See* [id. § 3501.04](#).

²⁹ [Id. § 3501.05\(N\)\(1\)](#).

³⁰ [Id. §§ 3501.06, 3501.11](#).

³¹ [Id. § 3501.11\(J\)](#).

³² Ohio Att’y Gen., *Public Corruption*, <https://www.ohioattorneygeneral.gov/Individuals-and-Families/Victims/Submit-a-Tip/Public-Corruption.aspx> (last visited Oct. 15, 2023).