

ELECTED OFFICE OF THE SHERIFF

EXECUTIVE SUMMARY

Issues Presented for Study

In most of the states the long-standing historical practice has been that the sheriff is elected for a four-year term of office. An issue which periodically arises in various jurisdictions around the United States, often in response to a particularly current and unusual situation or one of local government political conflict, is whether or not the status of this office should be changed from elected to appointed.

A Historical Perspective

The question presented is not a new one, having been around in some form for at least 300 years. In 1682 the City of London and County of Middlesex were concerned with moves by the Crown that would deprive them of the right to elect their sheriffs. The American county itself has its antecedents in ninth century England when the King divided the country into “shires”, or local government units. Three officials oversaw the shire: the earl, the sheriff, and the bishop. Of these, the shire-reeve, later called sheriff, was second in importance to the earl. Originally appointed, the English sheriff eventually became an elected official.

When English colonists set up local governments in America the units and types of officials were patterned after the English model but with adaptations including the appointment of local officials by the colonial governor. Appointment remained the norm until during the Jacksonian era when states switched to election of many county officials. Today the number of local positions still elected has been significantly reduced, but across most of the country the sheriff remains an elected official.

Present Elected Status of Sheriff

Across the country popular election is the almost uniform means of selection of the sheriff. Sheriffs are elected to four-year terms in 41 states, two-year terms in three states, a three-year term in one state and a six-year term in one state. The races are on a partisan ballot in 40 states and on a non-partisan basis in 6 states.

A few states do not have the office of sheriff as such. There are no sheriffs in Alaska and that office was essentially abolished in the year 2000 in Connecticut. Hawaii does not have the position traditionally associated with the office of sheriff. In Rhode Island, the governor appoints the sheriff. In two Colorado counties and Dade County, Florida, sheriffs are appointed by the county executive.

Some jurisdictions have explored switching to a system of appointed sheriffs and at least two have had an appointed sheriff and returned to a system of elections. In Multnomah County, Oregon the sheriff became appointed on January 1, 1967. From January 1, 1967, to late 1978 the county board appointed six different sheriffs. Due to dissatisfaction with that system, the voters returned to election of the sheriff. The position of sheriff in King County, Washington, which is the Seattle area, was elected until 1968. At that time the Home Rule Charter of the county was amended and the sheriff became appointed, serving at the pleasure of the elected executive. After

several years under this system the voters restored to position to being elected. Popular reports indicate that the voters felt that public safety and law enforcement services would be improved by the return to election of the sheriff.

In nearly 3100 other jurisdictions throughout the country, the sheriffs are elected, although in some jurisdictions sheriffs are appointed to fill out unexpired terms if there is a death or resignation of the incumbent. In 20 states a vacancy in office is filled by appointment by the county board of commissioners. The office of governor fills a vacancy by appointment in 9 states and a variety of other means are used in the remaining states to fill a vacancy, including special election, appointment of the chief deputy and appointment by the political party of the former sheriff. Several states use a combination of appointment and special elections, depending on when the vacancy occurs.

Efforts to place the issue of appointment before the voters have rarely resulted in a change from elected status. In 1994 Iowa held a referendum to change the status of sheriff from elected to appointed. That initiative was heavily defeated by the voters.

Election is the best option.

There are at least four reasons to support election of the sheriff.

- 1) The sheriff provides a check and balance as an elected county official directly responsible to the citizens that protects from undue influence by members of the county board or by other county officials. There are also several checks upon the unfettered discretion of the sheriff. The voters can remove the sheriff from office during the election; the county board, subject in some states to appellate review, controls the budget and salary of the sheriff; and in extreme cases statutes authorize the removal of the sheriff from office for misfeasance or nonfeasance of duty.
- 2) In our democracy, we should have the right to choose who is to be sheriff. In many counties the sheriff is the single most powerful individual and institution. Despite the efforts of appointment proponents, voters who have had a chance to decide the issue have nearly universally decided to keep the office elective. Citizens should have the freedom to choose their sheriff and direct election is the best means to accomplish that.
- 3) The election of the sheriff is consistent with national traditions and practices. Election of sheriffs is nearly uniform throughout the United States. History has shown in those jurisdictions in which the sheriff is appointed there is a decrease in quality and continuity of law enforcement services and administration. When the sheriff is subject to the whims and caprices of the board of commissioners, the office becomes more politicized, not less.
- 4) There is stability and continuity of office. Sheriffs at the county level and city police departments at the municipal level handle local law enforcement. While city police departments on the whole do a good job, comparison of the continuity, innovation and public responsiveness of the office sheriff to city police demonstrates the perils of appointment. There is no objective, empirical data that proves city police departments headed by an appointed law enforcement official are any more creative, innovative, stable or cost-effective than the office of sheriff.