

By What Authority is The Sheriff the (CLEO) Chief Law Enforcement Officer of the County?

by,

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The Sheriff is the only elected law enforcement officer in the country. This fact alone is the very essence of the word, *unique*. It is the most authentic law enforcement office in the land by virtue of the fact the Sheriff is elected. This is a significant point. Why? Because he serves from a direct mandate of “We the People.” Remember, it is We the People that ordain and establish the US Constitution (the highest law in the land) and it is We the People who elect our Sheriffs.

Sheriffs are executive officers and as such are “Constitutional,” meaning they are required by Article VI of the US Constitution to be bound by oath or affirmation to support the US Constitution (the highest law in the land). The Sheriff does not answer to a mayor, judge, county commissioners, governor, police chief, prosecutor, or the president. His oath is to the US Constitution and State Constitution, not a person. His boss is “We the People” — the very source of governmental power and existence.

Not only is it self-evident that the Sheriff is the Chief Law Enforcement Officer in the respective counties by virtue that he is elected and has county-wide jurisdiction, but in a SCOTUS case, *Mack-Printz V US* (1997) the majority opinion reaffirmed the obvious, stating the Sheriff is the “CLEO” Chief Law Enforcement Officer and is bound by oath to the Constitution.

Many Sheriff duties are historical, ancient, and common from county to county across the land, but are also spelled out in Idaho state code including the primacy of the office.

Idaho Code

COUNTIES AND COUNTY LAW

TITLE 31

CHAPTER 22

SHERIFF

31-2202

DUTIES OF SHERIFF

“The policy of Idaho is that the **primary duty** of enforcing all penal provisions and statutes of the state is vested with the sheriff of each county as provided in section 31-2227, Idaho Code”.

Words mean things: “Primary” is an adjective meaning first or highest in rank or importance; chief; principal.

Another authoritative source of Sheriff primacy is:

TITLE 31

COUNTIES AND COUNTY LAW

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31-2227. ENFORCEMENT OF PENAL LAWS — PRIMARY RESPONSIBILITY. (1) Irrespective of police powers vested by statute in state, county, and municipal officers, and except where otherwise provided in Idaho Code, it is hereby declared to be the policy of the state of Idaho that the primary duty of enforcing all the penal provisions of any and all statutes of this state, in any court, is vested in the sheriff and prosecuting attorney of each of the several counties. When, in the judgment of such county officers, they need assistance from municipal peace officers within the county, they are authorized and directed to call for such assistance and local officers **shall** render assistance.

Furthermore, Article 18, Section 6 of The Idaho State Constitution requires that all of Idaho’s forty-four sub-divisions (counties) have an **elected** sheriff. City police are a luxury. They are security for municipal corporations.

Sheriffs must exist and are primary everywhere except federal lands under “exclusive jurisdiction” (i.e. military bases, Federal Courthouse and Post Offices. The Sheriff is primary on BLM lands and Forest lands which are designated as only “proprietary jurisdiction” federal land, not exclusive. The other exception to sheriff primacy is the Idaho State Capitol and Idaho Supreme Court which by Idaho state code are the primary jurisdiction of the State Police).

Authority is meaningless without the integrity and courage to uphold the oath. Upholding the oath is the most fundamental duty of a *constitutional officer* (as defined in Article VI of the US Constitution). The Sheriff is an executive officer and therefore required to take the oath of office. **Sheriffs who do not put their oath in action -- by interposing-- render the constitution toothless and government un-restrained.** The Sheriff has the duty to uphold the US and State Constitutions. The Bill of Rights are “The Untouchables.” They were stepped on during COVID precisely because Sheriffs did not universally honor their oath and **exercise their primacy** in Idaho’s respective counties when it mattered most.

Unlike any other law enforcement executives, Idaho code authorizes only the Sheriff to command as many inhabitants of the county as he deems necessary to carry out his duties. The chief duty is to honor his oath and We the People can be called on to assist in that solemn role.

**Excerpt from Doug Traubel's Book: RED BADGE A Veteran Peace Officer's
Commentary on The Marxist Subversion of American Law Enforcement &
Culture**

OFFICE OF SHERIFF

When you think of the Office of Sheriff, you may not realize how uniquely suited it is to defend individual liberty and help restore state power. The Sheriff is truly unique; one of a kind, unlike anyone else. The Sheriff is **the only elected peace officer in the country.**

The Sheriff does not answer to a bureaucrat in Washington DC, nor to the president, nor a judge, nor county commissioners. The Sheriff answers to his boss: The People, and has by virtue of his oath the relative autonomy to exercise some moral agency over how laws are enforced.

Sheriffs are constitutional officers in most states that have the office (there are no sheriffs in Alaska, Hawaii, and Connecticut). By design the Sheriff is elected and close to the people, chosen to protect them from criminals of all stripes, including overreaching federal and state government. The Sheriff is: The Peoples' Guardian.

In **Mack/Printz v. United States, 521 U.S. 898 (1997)** the US Supreme Court reaffirmed the Sheriff is the chief law enforcement officer (CLEO) in the county and in this country.

This begs the question: Why do we so seldom see Sheriffs assert their authority against federal overreach or challenge federal abdication of delegated duty like securing the border?

Answer: The Office of Sheriff has been compromised by ignorance and by dependence on federal money, mostly in the form of grants and gifts.

The good news: There is a movement to restore the constitutional Sheriff. Its aim is to remove the influences that compromise the office and replace it with conviction to the oath of office.

Supporting this movement is the CSPOA, (Constitutional Sheriffs' & Peace Officers' Association). Their mission: To equip Sheriffs, peace officers and public officials

with the necessary information and public support to carry out their duties in accordance with their oaths of office.

There are about 3,100 Sheriffs in the United States. Of these, 479 are members of the CSPOA. In addition, there are county commissioners and other officials that have joined and are backing their Sheriffs. It would seem these 479 plus elected officials have asked an important question:

Of what value is an oath when the person who takes it yields to the very forces it was intended to withstand?

So, what does it look like when Sheriffs are led by a conviction to their oath?

- In Wyoming, Sheriffs require that Feds check in before making arrests, serving papers, or confiscating property. This policy came about after INS (now called ICE) raided the Casteneda family's home. The problem: The Castenedas were American citizens! This Wyoming Sheriffs' policy will save lives and protect rights by providing much-needed oversight of federal actions in the states.
- Other examples of Sheriffs standing up: In New York and Colorado Sheriffs refuse to enforce state gun control laws that are unconstitutional on their face.
- The New Mexico Sheriffs' Association threatened to arrest feds who move to confiscate guns.
- Sheriff Johnny Brown of Ellis County, Texas said he would resist any effort by the federal government to confiscate firearms in his county.
- Sheriff Brad Rogers of Elkhart, Indiana told the FDA he would arrest their agents for trespass if they entered an Amish farmer's land to "inspect" without a search warrant. The feds threatened to arrest the Sheriff. He did not flinch, but the feds slipped away dropping the issue.
- Sheriff Joe Baca in Serra County, California told his county commissioners he would not enforce BLM road closures in the national forest.

Sheriff Baca understands that Sheriffs cannot be pressed into service to enforce federal regulations.

- Sheriff Gil Gilbertson of Josephine, Oregon told the U.S. Forest Service and BLM he would access any closed road he deems necessary to perform his many

and varied duties as the chief law enforcement officer in the county and furthermore, he would not recognize any road closures that are not coordinated through him and articulated with sound reasoning.

Sheriffs are standing up! Momentum is building to defend states' powers and individual liberty.

Much of the west is deemed "federal land." How does this affect the Sheriff's authority to interpose his office between federal overreach and The Peoples' rights on public lands?

I will answer this by sharing a summary of an argument being made by Sheriff Gilbertson whose county is 68% "federal land." The entire argument is titled, "Unraveling federal jurisdiction within a state" and can be found on the Web.

Sheriff Gilbertson starts off with the fact that it is well established that the Sheriff is the chief law enforcement officer (CLEO) in the county. This he says includes on lands managed by the federal government, notwithstanding areas of exclusive control like military bases, post offices and the like mentioned in the Constitution under Article I, Section 8.

Furthermore, according to the Inventory Report on Jurisdictional Status of Federal Areas within the States (June 30, 1962), commonly referred to as the "1962 Eisenhower Report" Sheriff Gilbertson points out that there are four categories of jurisdiction over federal lands.

Josephine County, falls under Category 4: "Proprietorial Jurisdiction." This means that the state has all authority. A county is a subdivision of the state; each with its own the Chief Law Enforcement Officer (CLEO) — the elected Sheriff. The federal government has some right or title over an area, but no measure of the state's authority. The federal government operates in a governmental rather than a proprietary capacity.

In addition, Sheriff Gilbertson points out there are federal court cases that reject the empowering readings of the Commerce Clause that brought us to the point of a lording, armed, administrative state.

I will add this includes even Chief Justice Roberts' unpopular opinion on the individual mandate of the Affordable Care Act where interestingly he too rejected

the Commerce Clause as the expected authoritative source that the Supreme Court would cite.

Sheriff Gilbertson and other Sheriffs and scholars like Utah's Ken Ivory are making sound, well-researched arguments that substantively rebuke federal overreach and their unconstitutional hold on "federal land." These arguments are built on organic law, the Constitution, historical documents and interestingly, even the federal court's "case law" when it is juxtaposed to their own bureaucratic regulations (I am amused by the irony of one form of pretended legislation challenging another: case law vs. regulations).

Using case law to argue what is right and what is "law" is somewhat counterproductive because it perpetuates the problem by legitimizing the unconstitutional practice of judicial review covered early in this book. However, when citing case law for the purpose of illuminating the contradictions of the federal government and how far it has veered off course it can be instructive albeit not authoritative.

One such source is a congressional report dated October 23, 2000. A land dispute between the USFS and Elko County, Nevada was resolved in part by referring to a 1907 Supreme Court case: *Kansas v. Colorado*, where it was ruled that the U.S. Forest Service had no general grant of law enforcement authority within a sovereign state unless designated as such by state authority.

Another source is ***Caha v. United States, 152 U.S. 211, 215 (1894)*** "...within any state of this Union the preservation of peace and the protection of person and property are functions of the state government, and are not part of the primary duty, at least, of the nation."

Following this argument, who is the Chief Law Enforcement Officer that can grant or revoke such police power to the feds? Answer: The County Sheriff.

This is a snapshot of a more compelling argument that Sheriff Gilbertson and others in the CSPOA are making that the feds have no constitutional basis of authority for law enforcement powers in the county.

The federal government's response has been silent for the most part, but they are behind efforts to eliminate the Office of Sheriff or diminish its power from state to state. One such effort is taking place in Sussex County, Delaware where Sheriff Jeff

Christopher is fighting for his Office against efforts begun by Joe Biden's late son who was the state attorney general.

It seems the feds find themselves in the untenable position of defending its practice of overreach against sobering constitutional realities and their own corpus of historical court precedents that favor dual sovereignty over federal tyranny.

To their dismay, Constitutional Sheriffs are not going away, but are growing more numerous and bolder in standing by their oath!

UNDERSTANDING THE SUPREMACY CLAUSE

Sometimes state officials cite the "Supremacy Clause" to their constituents as political cover for standing down to federal overreach. **The Supremacy Clause is NOT a federal trump card over the states.**

State officials reference the Supremacy Clause as an "out" to justify standing down to the federal government when they should be standing up on their oath in defense of state sovereignty. The smoke and mirrors work because most citizens have been raised by the public school system and grew up under an unconstitutional Administrative State superimposed over the Constitution. The fallacy in this supremacy argument begins with the fact that the words, "Supremacy Clause" — do not exist in the US Constitution. They are a descriptor used to refer to Article VI, Section 2.

The popular use of this descriptor has become a substitution for the very section to which it refers. Subsequently, "The Supremacy Clause" has evolved into a life of its own apart from the very authoritative clause it was coined to reference. Although only a balloon tied to the section it references, it has come to have its own gravitational pull intellectually taking us off course. The use, over use, and misuse of that term has intoxicated the federal government into believing it has limitless "supreme" power over the states and conditioned the people to believe the same. Consequently, its use has changed the scope of the very constitutional

source it references and knocked it out of alignment with the expressed intent behind it — as found in Federalist papers 33 and 44 respectively.

Using the term, “Supremacy Clause” is much like the popular misuse of, “separation of church and state” (as if it were found in the Constitution); we are seeing something that is not there.

This misinformation over the meaning and scope of the Supremacy Clause has intoxicated federal bureaucrats with an attitude that they have absolute power over the states and has conditioned the people to believe the same when they do not see their state government flex and stand up jealously to federal overreach.

Jealousy is the fear of losing something you love to someone else. Jealousy is the tenor we need in our elected representatives when it comes to state sovereignty and individual liberty.

Alexander Hamilton made clear that when U.S. law is not pursuant to its constitutional (limited and delegated) powers it would be “merely a usurpation and will deserve to be treated as such.”

Certainly, the Founders agreed that a supreme law was required for any proper government to function, but **the federal government would be limited in its scope and supremacy to only the eighteen enumerated powers delegated to it by the states (its creator) in Article 1, Section 8.**

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