

**THE
HISTORY
OF THE
OFFICE
OF
SHERIFF**

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INTRODUCTION

For the greater part of my life, I have worked for a sheriff's department and I have served under two dedicated and professional sheriffs. For the past twenty-six years I have invested myself into law enforcement and service to my community through the office of sheriff. I began my career as a deputy sheriff and have worked my way up the ladder to be elected Sheriff of Schenectady County in 1988.

Being a bit of an academic, I began to look into the origins of the office. The problem was that there were no readily available books about the office of sheriff. I found books about police chiefs, police officers, state police officers, police detectives, narcotics police officers, and even police dogs. I was able to locate books about the F.B.I., C.I.A., A.T.F., and the D.E.A., but my local bookstore did not have a single book about the office of sheriff. My efforts to order a book about the sheriff through my local vendor were also unsuccessful.

Through a law enforcement organization I was able to locate David R. Struckhoff's, *The American Sheriff*, which as a research piece did provide some insight. I was also able to locate two books that were out of print relative to the subject: *The Sheriff* by Irene Gladwin, which traces the office in England, and *The Seventeenth Century Sheriff* by Cyrus Karracker, which addresses issues about the Colonial sheriff in the Chesapeake Colonies of America. These works were of tremendous value to my research on this project.

The classic tale of Robin Hood tells us in fictional form about the sheriff of Nottingham and his evil doings. The story depicts Robin Hood and his merry men as a group of idealistic criminals that support the poor through thefts. A diabolical sheriff attempts to apprehend the thieves on behalf of an evil king. Though the tale is a fable, the anecdotes accurately reflect typical sheriffs of that era.

Had the office of sheriff not moved to the New World, as a pre-established governmental form of enforcement, it may have perished in England. In America, the office found a new and revitalized life in government. It prompted Thomas Jefferson to write in his *The Value of Constitutions*, "the office of sheriff is the most important of all the executive offices of the county".

The most exciting time for the office of sheriff in American history was the Wild West period and there is a significant amount of literature about it. This was certainly the most prolific era for sheriffs, however, much of the literature does not have accurate historical value. The data is filled with embellishment and discourse created for television and movie images about the position. Probably the reason there is so much creative imagery about this period is because of the violence associated with it. The American public has always been interested in aggressive behavior and this is fertile ground for engaging and hostile stories.

Because the West was in fact wild, there was a specific need for strong law enforcement responses. Sheriffs who helped tame the region did so with a dramatic, as well as turbulent flair. Stories about Wild West sheriffs and villains have become the American version of the morality play.

The American sheriff in the Old West became a cradle for the future of law enforcement. It provided a foundation for community oriented law enforcement, and the office has not only survived, it has flourished. The most significant issue regarding the longevity of the office lies with the concept that under most circumstances it is an elected position. This allows members of the community to have impact on the selection process, and the removal process, by virtue of their vote.

Because no one specific piece of scholarly literature exists that deals with the total history and perspective of the office of sheriff, I have decided to create one. The following work will be a synthesized approach from a variety of sources. This work will be documented by a great number of citations because it has been created from a blend of different seeds that have grown into a garden.

I have found this a fascinating research project because it has been my life's work. My occupation in law enforcement, through employment with the office of sheriff, has been an inspiration to me. It deserves special treatment in the form of historical research and I am obliged to provide it, in return for the exhilaration my career has provided for me. I speak about this office with a certain reverence, yet, I realize that others may not share my passion. Hopefully, some may find it a worthy read either for its historical value or for other law enforcement interest.

CHAPTER I

THE ORIGINS OF THE OFFICE

MEDIEVAL BEGINNINGS

The office of sheriff did not develop suddenly. It was a prolonged development rather than an immediate occurrence. It was a development that began over 1000 years ago in England. The development of the office occurred simultaneously with the development of their local government structure. The local form of government allowed early English people to be divided into smaller units subject to the considerations of a national interest and central authority of the king. The formation of the units was crucial to the central authority because the population was scattered and Saxon kings had no large standing armies, a centralized court system, or the ability to finance a government appropriately. The small unit management therefore became crucial to a national development of government.¹

In about the seventh century, groups were formed into "tuns" (later called towns), which were the basic unit of smaller society. Groups of ten families of freeholders or frank-pledges formed units called tens or tithings. The frank-pledges were persons that had to pledge surety to the sovereign against any infractions of good behavior for the benefit of the collective good of the group. Groups of ten tithing became an administrative unit known as a "hundred". Each hundred was responsible for the defaults of the individual freeholders or frank-pledges. The collective liability of the group made for a corporate form of government.²

The social groups of these hundreds became useful for census and resource assessment. The hundreds became the basic unit of tax appropriation for the Crown and they provided for much of the development of English common law. The hundreds existed until the nineteenth century, when a more modern form of assessment and census taking developed. Indefinite numbers of hundreds existed throughout early English history.³

Collectively, the hundreds formed into geographically based divisions known by the Anglo-Saxon word "scir", which means, "a piece shorn off". The word scir later became shire. Shires were originally not much more than forest clearings identified roughly by existing natural landmarks that formed their boundaries. The shires have appeared on crudely drawn maps and have been written about in English literature for more than ten centuries. Until 1972, there were forty-two such units in England, with twenty-four of them bearing the suffix *shire*. The earliest of these units to be so designated were Hampshire, Wiltshire, and Berkshire. In the year 871, King Alfred "shired" his entire kingdom in order to compile the units into a unified defense against the intrusion of the Danes.⁴

While these shires were in the developmental and refinement stage, a custodian was chosen by the fellow members of the hundreds to be their "gerefa" or guardian. Later this title was to become known as "reeve". The combination of the unit known as scir or shire and the administrative title of reeve would eventually develop into the word "sheriff". With the exception of king, no English institution is older than this office. The earliest mention of a position somewhat like a sheriff was in the 970's during the reign of King Edgar.⁵

Anglo-Saxon society was based upon a precarious and mercurial agrarian existence. Primeval farming methods, inferior animal husbandry, pestilence, disease, severe winters, and widespread warfare made for a burdensome lifestyle. Fighting for existence against aggressive men or the cruelty of mother nature made life tenuous at best. All resources came from what was produced from, or maintained on, the land. In order to receive protection from attacks of neighboring communities, the peasants had to pay an excise to the king to finance protective armies. The tax was in the form of services or produce owed to the Crown. In order to collect payments from the peasants, a reeve was appointed by the king to collect his recompense. The reeve had full authority from the Crown to force peasants to pay their due as well as having full administrative power over the shire. He could supervise the lives of the peasants and manage their daily existence in order to insure proper productivity from the land, thereby, insuring adequate payment to the king.⁶

Though it is impossible to date precisely when the reeve management system in the shires occurred, the first mention of the name reeve was in a charter, in the year 904. The document referred to Bishop Werfrith leasing a portion of his land to his "reeve". The reeve was a priest named Wulfsgie and the Bishop was grateful to him for the bountiful proceeds of the land. In the charter Wulfsgie was praised for his "loyal, efficient, and humble service" to the monarchy.⁷

The administrative service of the reeve transformed from a resource producing capacity to a position that involved community management. The reeve could enforce standards and customs of the community and he had total authority to enforce the "kings peace". This involved the enforcement of all demands of the king or the reeve. If the peace was not kept, or if order was not maintained by the reeve, he could assess penalties to the violators. Monetary levies could be made ranging from a man's "wergild", or price of his life, to lesser corporal punishments for minor violations. Portions of the fines collected, were given to the victims, or the victims's family, after the king was given his due by the reeve. The assessments varied from shire to shire and by the demeanor and character of the reeve.⁸

As the administration of the shires became more complex the reeves had less time to attend to their personal farming. Because of this, the reeves were excused from royal taxes in exchange for their administrative duties. They were also given the choice acreage for their use, and a greater portion of the land was given to the reeves than to peasants without status. Eventually, reeves were allowed to keep portions of the tax they collected as compensation. This was exclusive of the riches they were already skimming off the top for themselves before they remitted to the monarchy. There would have been little ability for the crown to keep track of the assessments, given the exclusive authority of the reeves. Generally, the monarchy was happy with what they received and were able to enjoy the financial benefits of the shires without the tiresome responsibility of tax collection and population management.⁹

Some reeves specifically in charge of royal properties were known as "wic" or "port" reeves. They were distinguished from the reeves known as "tungerfan" reeves, who managed king's private estates. The wic reeve in charge of the fortified areas where the king and his family resided was not a peasant but a gentry member and a landowner in his own right. This upper class reeve was known as the "King's Reeve" or "High Reeve" and he was on the upper side of the social scale and part of the aristocracy.¹⁰

As the scope of the monarchy grew with increased sophistication and became more complex, so too did the status of the king's reeves. The High Reeve shared managerial responsibility for the shire's administration with an ealdorman and the bishop. The ealdorman was in charge of the king's military and spent much of his time away fighting the king's battles. The bishop's responsibility was to attend to the king's personal needs. Consequently, the High Reeve had most of the day to day administrative responsibilities for the maintenance of the shires. It was the High Reeve that dealt directly with the people and became a permanent link between them and the Crown. The High Reeve had direct responsibility for fiscal matters and for police duties.¹¹

The High Reeve's police responsibility was to preserve the king's peace. He had authority to raise the "hue and cry" for the pursuit of thieves and other criminals. The hue and cry was a form of posse, in which once the shout was sounded that a crime such as robbery, theft, assault, or murder was committed; all that heard it were obligated and bound by honor to join the pursuit until the scoundrel was captured or the reeve called off the search. The first recorded involvement of the reeve in this law enforcement process was first chronicled in the tenth century, when King Aethelstan proclaimed:

"Each reeve is to help the next for the sake of peace of all, on pain of fine for disobedience to the king"¹²

The most difficult of the reeve's duties was his judicial responsibilities. The king garnered considerable revenue from the fines imposed for breaking the peace. The Church too sought to preserve the peace by ruling against any form of trade on Sundays. The enforcement of Church laws was also the obligation of the reeve. The reeve had total authority over the Hundred Courts, which were held monthly. Because there were many hundreds in the shire the reeve delegated judicial responsibility to a bailiff, whom he appointed to preside over legal concerns. The courts ruled on issues of civil law as well as criminal matters. It was not uncommon for the courts to hear social gossip, business transactions, and land grants. Because the fine process brought enhancement to the king's treasury and the collection of fines ingratiated the reeve to the king, it became quite a litigious society.¹³

1. Gladwin, I., *The Sheriff: The Man and his Office*, (London: Victor Gollancz Ltd., 1974), p. 9.

2. Morris, J., *The Age of Arthur*, (New York: Charles Scribner's Sons, 1973), pp. 491-494.

3. Stubbs, W., *Constitutional History of England*, Vol. I, (Clarendon Press, 1873), p. 116.

4. Gladwin, I., *The Sheriff: The Man and his Office*, (London: Victor Gollancz Ltd., 1974), pp. 9 and 12.

5. Morris, W.A., *The Medieval English Sheriff to 1300*, (New York: Manchester University Press, Barnes and Noble Inc., 1968), p. 18.

6. Gladwin, I., *The Sheriff: The Man and his Office*, (London: Victor Gollancz Ltd. 1974), pp. 15-16.

7. Robertson, A.J., *Anglo-Saxon Charters*, No. XVIII, (Cambridge University Press, 1956), p. 35.

8. Robertson, A.J., (Ed.), *Anglo-Saxon Charters*, No. V., (Cambridge University Press, 1956), p. 9.

9. Gladwin, I., *The Sheriff: The Man and his Office*, (London: Victor Gollancz Ltd., 1974), pp. 17-19.

10. *Ibid.*, p. 19.

11. Hodgkin, R.H., *The History of the Anglo-Saxons*, Vol. II, (Oxford University Press, 1939), p. 473.

12. Whitelocke, D., (Ed.), *English Historical Documents*, Vol.I, (Eyre and Spottiswode, 1955), p. 511.

13. Gladwin, I, *The Sheriff: The Man and his Office*, (London: Victor Gollancz Ltd., 1974), pp. 23-24.

DEVELOPMENT OF THE WORD SHERIFF

Some time between the years 964 and 988, a new title appeared on a document that was not specifically dated. A dispute had occurred over an inheritance in Kent, to which Archbishop Dunstan had laid claim. The case was heard before the shire court and the witness to the Archbishop's oath was the reeve priest named Wulfsige, who was described in the record as the "scirimannes". Though this man was a priest, he held a secular position connected to the administration of the shire. This recorded instance of an official title being linked to the jurisdiction of the shire was a decisive phase in the development of the word "Sheriff".¹⁴

The next step in the development of the word sheriff came with the term "sciresman". This term, though never evolved into general use, was used to describe negotiations between Abbot Aelfhun and a man named Leofric, who was identified as a "scyresman". There have been several variant spellings of this word. All of the spellings appear to be associated with the title that identified an official delineation of a king's agent and an administrator within the shire.¹⁵

During the reign of King Cnut (1017-1035) the kingdom was reduced to four (then later six) great earldoms. This led to the elimination of the ealdorman's authority in the shires. This left the king's reeves to be the sole secular authority for the administration of the shires. This person, who now had an advanced status, was the head executive for the shire. It was during Cnut's reign that the official royal title "scirgerfa" began. This was a combination of two Anglo-Saxon words and was indicative of the advanced status and responsibility of the High Reeve. The new title scirgerfa was soon adapted to common speech to scir-reeve, which ultimately became the word Sheriff.¹⁶

While in Rome in 1027, King Cnut wrote a letter which formally identified the word sheriff. The letter in part read:

"I command all the sheriff's and reeves over my whole kingdom, as they wish to retain my friendship and their own safety, that they employ no unjust force against any man neither rich nor poor, but all men of noble or humble birth shall have the right to enjoy just law, from which there is to be no deviation in any way, neither on account of the royal favour nor out of respect for any powerful man, nor in order to amass money for me. Now therefore I command and implore all my bishops and reeves of the kingdom by the faith which you owe to God and to me that all dues which is owed to God shall be paid in full. If they are not paid, the Royal collectors are to obtain them according to law."¹⁷

The letter shows that the word sheriff was used in its present form in 1027 relative to English maintenance and administration of the shires. It also shows a sense of noble justice by the king; that no man shall be held to a greater or lesser standard by their status or birthright. Further, it acknowledges that the government of the shires was blessed in the name of God and that the king was empowered by holy ordinance to rule the land through the administration of the sheriffs. Finally, the letter identified that the collection of taxes through the sheriff was a matter of law, not a matter of choice, and fully enforceable as well as unavoidable.

By the eleventh century, the sheriffs were ingrained with law enforcement responsibility. When Edward the Confessor succeeded King Cnut in 1042, the sheriff was the custodian of all the shires within his reign. The sheriff had full authority to execute any and all of

the king's commands. It was the sheriff's responsibility at this time to keep the king's peace, raise the hue and cry, and punish any violators. The sheriff seized lands of traitors and enforced all of the king's regulations. The authority of the sheriff within the shire was tremendous and the term of his office did not expire. It was held for an indefinite period and certainly as long as royal revenues were plentiful.¹⁸

14. Robertson, A.J., (Ed.), *Anglo-Saxon Charters*, Vol. XVI, (Cambridge University Press, 1956), p.86.

15. *Ibid.*, p. 140.

16. *Ibid.*, Vol., LXVIII, p. 150.

17. Whitelocke, D., (Ed.), *Anglo-Saxon Chronicles*, (Eyre and Spottiswode, 1955), pp. 414-416.

18. Gladwin, I, *The Sheriff: The Man and his Office*, (London: Victor Gollancz Ltd., 1974), pp. 28-29.

ABUSES

Beyond the considerable authority and power associated with the office of the sheriff, the financial rewards for the position were also high. The multiplicity of the duties allowed for sheriffs to have the ability to swindle and extort their subjects. This became a usual and over abused situation. It became so common that it was interpreted as the sheriff's right to cheat the peasantry. A common form of extortion was known as the sheriff's "ale tax". The brewing of ale was a monopoly of medieval sheriffs. A sheriff would set aside the best barley, that he confiscated from the peasant farmers, then he would force the serfs to buy his ale at inflated prices. The sheriff would forbid anyone other than himself from brewing ale to insure his monopoly. Gradually, this became a compulsory taxation that benefitted no one else other than the sheriff himself.¹⁹

The "Sheriff's Tooth", the "Sheriff's Welcome", and the "Sheriff's Paltry" were all euphemisms that served to identify the schemes of the sheriff to swindle the population and line his own pockets. To further complicate the situation, sheriffs were allowed to keep any sum they collected which was over the expected amount required by the king. This inspired sheriffs to gouge peasant taxpayers in a practice developed under Norman kings, known as "farming" the shire. This unseemly practice allowed for sheriffs to have a free hand to "fleece their flock", so to speak, through the over charging of taxes. By farming the shire, the sheriff could produce more income off the backs of the peasants than he could ever produce off the land.²⁰

19. Coulton, C.G., *Medieval Village, Manor, and Monastery*, (New York: Harper & Row Publishers, 1960), p. 28.

20. Round, J.H., *Victoria County History*, (Constable, 1920), p. 209.

CHAPTER II

EARLY ENGLISH SHERIFFS

NORMAN SHERIFFS

By 1066, when William the Conqueror seized power, he replaced all of the existing sheriffs with his own loyal comrades in arms. When William conveyed the offices of sheriff to his Normans, he also bestowed to them the title "Vicomte," which added nobility to their positions. He allowed Vicomte sheriffs to build castles, a powerful symbol of privilege and a far greater honor than had ever been granted to prior Anglo-Saxon sheriffs. The castles were a sign of aggressive force. This fortification symbolism helped identify William as the incomparable authority in the newly conquered land.²¹

The most famous William the Conqueror sheriff was a man named William Malet. Malet was a ferocious warrior and during the Battle of Hasting his horse was killed from under him. Mounting a fresh horse, he continued leading the charge, killing the enemy along the way, to a Norman victory. William was very impressed with Malet's courage and ferocity, so he continued to use Malet to crush insurgent forces within his reign. Because Malet was a man of unrivaled loyalty and his merciless manner made him very efficient, he proved to be very useful to William. As a reward, William named Malet the sheriff of Yorkshire.²²

King William used the office of sheriff to perform all the personal and public services that had previously been performed by the office under Saxon kings. He sought aggressive types for the office of sheriff whose ambitions were consistent with his. Those willing to squeeze the peasants to their maximum were the best qualified in William's eyes. He instituted the practice of selling the office to the highest bidder. This brought forth evil men willing to pay exorbitant prices for the office and then willing to do whatever it took to recoup their investment. Duping the peasants took on a whole new dimension during this era. Nearly nothing was off limits to unscrupulous sheriffs under Williams reign. No one spoke out for the peasantry because their only representative to the king was the very sheriffs embezzling them. The most notorious was Picot, Sheriff of Cambridgeshire. The Liber Elinensis or Exon Domesday speaks of Picot's terrorization campaign against his people. Monks describe him as:

*a hungry lion, a prowling wolf, a crafty fox, a filthy swine, a dog without shame, who stuffed his belly like an insatiable beast as though the whole country were a single corpse.*²³

The concept of William the Conqueror selling the office of sheriff brought with it dreadful consequences. So too came terrible abuses that were exacerbated by the circumstances of the times. If events occurred that reduced production within the shires and thereby reduced the prosperity of King William, the sheriff was then forced to press the peasants even more to make up for the deficiency. In 1083, William levied the highest tax assessment of his reign to make up for the previous year's famine and low production. To extract the king's due and get an additional margin for themselves, sheriff's used coercion in every form upon their liege. To enhance their income, sheriffs commonly pillaged Church properties. The office of sheriff, during William the Conqueror's reign was subject to unconscionable perniciousness.²⁴

The only coin in circulation in twelfth century England was the silver penny. It was the responsibility of the sheriff to police the silver content in the coinage. If the sheriff failed to see that the tender did not meet quality assurance in the amount of silver content versus the alloy percentage, he was held personally liable for the shortage. Because this burden was placed on the sheriffs in the area that effected them the most, their pocketbooks, it became of great concern to them. They set forth the harshest and cruelest terms to deal with counterfeiters and "false moneyers". Enforcement of the matter was particularly unkind under the reign of King Henry II to punish offenders that circulated "bastard" coins. The first offense routinely resulted in the severing of a hand or castration. The stiff penalty for the violation was a sign that a sheriffs resources was not something that should be threatened.²⁵

The coming of King John in 1199 brought about one of the most stirring periods in the history of the medieval sheriff. With more than twenty sheriffs joining John, they collectively condemned the Pope and all his agents. As King John waged war against the Welsh, the French, and the Irish, he placed the emphasis of his military endeavors upon the sheriffs of his round table. This large military extension, together with the already mushrooming responsibilities of the office, stretched the sheriff's to their limits. To finance his wars, John placed an even greater burden on the offices of his sheriffs to drain the peasants of every last taxable resource to fund his battles. Because of the sheriff's authority and ability to raise funds, the 13th century saw the sheriff as the most powerful administrative force in medieval England. The office had become the foundation of English society and government.²⁶

King John selected his sheriffs wisely, and because he chose them carefully he obtained enjoyable results. He personally knew every one of the 100 or so sheriffs that he appointed between 1199 and 1216. Some were his intimate friends and most trusted advisors. In contrast to the prior practice of King Richard, he appointed only two members of the Church to the post. He instead chose to select intense, secular men, with strong military backgrounds. It was powerful characters with strong spirits that John needed to cope with the many crises of his reign. His deliberate selection of men of harsh demeanor for the post has been marked as a form of organizational genius. It was considered by people of his time as a substantive answer for the difficult issues of the day by selecting tough men for tough times. Much negative literature has been written about John's sheriff choices, mostly because he chose not to select clerics to the post. Because of this, he has received the highest condemnations by the Church.²⁷

21. Douglas, D., *William the Conqueror*, (Berkeley: University of California Press, 1964), pp. 297-300.

22. Gladwin, I., *The Sheriff: The Man and his Office*, (London: Victor Gollancz Ltd., 1974), pp. 37-40

23. *Liber Elinensis*, (Camden: Royal Historical Society, 1962) pp. 210-211 and Hallen, E.M., *Domesday Book*, (New York: Thomas and Hudson, 1986), pp. 24-26.

24. Galbrath, V.H., *The Making of Domesday Book*, (Claredon Press, 1961), p. 60.

25. Tomkeieff, O.G., *Life in Norman England*, (New York: G.P. Putnam's Sons, 1966), pp. 18-19.

26 Holt, J.C., *The Magna Carta*, (Cambridge University Press, 1969), p.27.

27. Morris, W.A., *The Medieval Sheriff*, (New York: Manchester University Press, Barnes and Noble Inc., 1968), p. 165.

REFORM INFLUENCES ON THE OFFICE

King John set out on a military effort to regain territories in France. His efforts to do so were a humiliating failure. He blamed his lack of success on his barons, by claiming that they had failed to properly support his efforts. The barons in turn had grievances against John, stating that his monarchy was unregulated by law. The baronial opposition was originally intended to restore affairs to the previous ways of Norman Kings William I, William II, and Henry I. In a dramatic move to restore things to the good old days, realistic considerations led to an insistence of pragmatic reforms. A charter was framed by Stephan Langton, Archbishop of Canterbury, which set forth points of law and attempted to reform specific abuses. The Church was joined by secular forces, which also had demands that were much different than cleric requirements. After concessions were made on both sides, a document of law was created to prevent taxes from being levied without common consent of the kingdom (an early form of "no taxation without representation") and legal reforms requiring due process. This document was Magna Carta, which came out in its final form in 1215. The charter was to become a major foundation for the supremacy of law and the predecessor of future legal documents of legal principle.²⁸

Much of Magna Carta's sixty-three clauses dealt with feudal entitlement against the monarchy. It is fascinating to observe, in this study of the sheriff, that Magna Carta exclusively addressed the relationship between the king and the sheriff. According to Irene Gladwin:

"the spirit of the sheriff and his office permeated Magna Carta from start to finish and considered in this aspect alone it is the finest example we possess to prove the importance of the sheriff's role in the governance of medieval England".²⁹

Twenty-seven of the sixty-three clauses in Magna Carta dealt directly with issues of the sheriff. Some articles mentioned the sheriff specifically and others referred to the office in phrases that used language such as: "our officials", "our constables", or "other Royal officials". Of five clauses mentioning the sheriff specifically by title, four were aimed to rectify or reform a particular abuse of the office. One clause demanded that the sheriff be responsible to make compensation for the destruction or damage to land in his care and that the assessment for the recompensation shall be based, not upon the judgement of the king, but by "two lawful and discreet men". The sheriff was forbidden, in the document, from holding lawsuits that should otherwise be held by royal justices. The document limited the authority of the sheriff to seize possessions, unless there was a royal warrant allowing for and directing such a seizure. Further, the sheriff was restricted from taking horses or carts from freemen, without their consent.³⁰

The intent of the clauses restricting the authority of the sheriffs were placed in the document for the express purpose of correcting or reforming specific abuses of the era. It was aimed at restructuring the authority of the king's sheriffs and the ilks that were being appointed to the position. Clause forty-eight dealt directly with a process for holding the sheriff accountable for abuse of his power and states:

"All evil customs relating to forests and warrens, foresters and warreners, sheriffs and their servants and the wardens of river banks are at once to be investigated in every

county by twelve sworn knights and within forty days of their inquiry the evil customs are to be abolished completely and irrevocably".³¹

By 1258, barons were faced with continuing issues involving sheriffs and their abuse and misuse of power. Magna Carta was a fitting start for outlining general provisions that restricted their exploitation of the office but more definitive rules were needed. Reformation of the position occurred under the inspired leadership of Simon de Montfort. Simon, the Earl of Leicester, introduced a set of idealistic views on politics and government known as the "Provisions of Oxford". The Provisions created a formal council of baronial advisors to the king and established a permanent set of rules that were to have a profound effect on the office of the sheriff. The intent of the reformation movement was to restore confidence in the government and allow for a complaint process for persons effected by the wrongdoing of the sheriff or other official. Rules initiated in the Provisions created long-term reform in the office. The Provisions spoke loudly and clearly:

"Let there be provided as sheriffs loyal people and substantial men and land tenants so that each there be a vavasour (feudal tenant just below the rank of baron) of the same county as sheriff, to treat the people of the county well, loyally, and rightfully".³²

The proclamations of the "Provisions of Oxford" stressed that a sheriff be required to take an official oath of office and swear to required and just service before God. The clause reads:

"Know that we have made each of our sheriffs swear this oath, that he will serve us loyally, and will do right to all people according to their power which he has from his office and that he will not fail from love nor for hate, nor fear of any, nor greed, as well as and as soon to do speedy justice to rich as poor".³³

The Provisions required that the sheriff not receive anything from anyone except food and drink in the amount to sustain him for one day. Additionally, the sheriff was forbidden from receiving any gift from a constituent with a value over one shilling. He could not lodge in a subject's house more than twice in a year's period, and then only on invitation, not demand. The reformation forbade him from seeking lodging from poor persons or at religious houses. As well as defining a code of conduct for the sheriff, the Provisions applied to any employee or servant of the sheriff. The Provisions and the contained oath applied to issues that would prevent abuse of power, misfeasance, or malfeasance in office. The acts of the Provisions have survived throughout the centuries and are still used in their general form today to provide an oath and a code of conduct for English public officials.³⁴

The Provision set term limits for the office of sheriff. Prior to the document, sheriffs served at the pleasure of the king and could hold the office as long as it pleased the king. The Provisions still allowed for the appointment of the sheriff to be made by the king, but a phrase was added to allow for the continuance of the office to "be approved by the counsel and provision of the Magnate's Council". The authority of the king to continue the appointment was thereby limited to a renewable approval of an additional body of government.³⁵

There was another clause in the "Provisions of Oxford" that prevented a sheriff from charging fees. This clause required the Crown to pay a salary or compensation for the services of the sheriff. This took the burden off the constituency from the sheriff being

able to use extortionate practices to enhance his income and placed the onus back on the king as his employer. This was perhaps the most unpleasant of the Provisions for the monarchy because up until this time the financial burdens of the office fell primarily on the peasants. Any conditions that depleted the finances of the Crown was always met with resistance in medieval England.

By 1261, King Henry III had acquired enough support to override the "Provisions of Oxford" and he announced them to be revoked. The Council of Barons was dismissed by Henry III and so too were all the sheriffs that had been appointed by the barons or with baronial approval. King Henry III then replaced them with men of his own choice who were not subject to any outside approval.³⁶

In 1263, Simon de Montfort lead a Baron's War against the king for the benefit of restoring the "Provisions of Oxford". With a coalition of barons and representatives of the towns, including support of some radical groups from London, Simon won a sensational victory at Lewes in 1264 that in effect made him the ruler of the country. Nonetheless, in 1265, he was defeated and killed by the king's son (later Edward I) at Evesham. Peace was declared in 1267 and King Henry III continued to appoint sheriffs to the office as he saw fit.³⁷

With the overthrow of the "Provisions of Oxford" and a loss of needed reform to the office of sheriff, the position was again to return to corruptive influences and unprincipled procedures. In 1289, when King Edward I returned to England after a three year absence, he was to find forty-one of his sheriffs accused of 138 separate offenses. Accusations were made that sheriffs took bribes to remove men from juries so they could return to their farm work. The practice involved the sheriff summoning too many jurors, thereby depleting the men from the fields. As this was an agrarian based society, the removal of the men from the land was a serious consequence. In order to be excused from duty the potential jurors were required to pay the sheriffs extortion money. The peasant's anger was so great that they took to inventing simple songs about the tyrannical sheriffs as soon as they were out of hearing range. One such song entitled "Song Against the Sheriffs" has survived to present time and emphasizes the anguish and emotions inspired by merciless sheriffs.³⁸

28. Marsh, H., *British Documents of Liberty*, Rutherford: Farleigh Dickinson University Press, 1971), p. 40.

29. Gladwin, I., *The Sheriff: The Man and his Office*, (London: Victor Gollancz Ltd., 1974), p. 124.

30. *Magna Carta, 1215, Clauses 4, 24, 26, and 30.* - Marsh, H., *British Documents of Liberty*, (Rutherford: Farleigh Dickinson University Press, 1971), pp. 40-53.

31. *Ibid.*, pp. 48-53.

32. Marsh, H. *British Documents of Liberty*, "The Provisions of Oxford", (Rutherford: Farleigh Dickinson University Press, 1971), pp. 57-60.

33. *Ibid.*, pp. 57-60

34. Gladwin, I., *The Sheriff: The Man and his Office*, (London: Victor Gollancz Ltd., 1974), pp. 163-164.

35. *Ibid.*, p. 164.

36. Jacob, E.F., *Studies in the Period of Baronial Reform and Rebellion*, (Clarendon Press, 1925), p. 74.

37. Gladwin, I., *The Sheriff: The Man and his Office*, (London: Victor Gollancz Ltd., 1974), pp. 170-174.

38. *Ibid.*, pp. 180-185

ISSUES OF CRIME

The period involving the reigns of three Edwards (1272-1377) was a time marked by unparalleled violence and crime. Continuous wars and recurring truces left bands of unemployed mercenaries that moved about the kingdom preying upon helpless villages. The problem became so prevalent that the "Statute of Winchester", in 1285, dedicated much of its language to the growing crime problem. This document specifically directed sheriffs to take up hue and cry against this scourge. If the sheriff were organizing a posse to pursue a particularly violent person or if a crime inspired passion, he could add to the cry to "let him bear the wolf's head"³⁹. This meant that the outlaw could be hunted down and killed in the same manner that a wolf who was a predator of their livestock could be hunted down and slain. The "Statute of Winchester" required sheriffs to keep arms and horses at the ready for this purpose. Also, by this law, sheriffs were required to interrogate any strangers in their shires and to arrest persons that failed to join the call of the hue and cry.⁴⁰

By 1377, when Richard II became king, the office of sheriff had settled down to a standard performance of civil service. Absent were the personal relationships between the king and the sheriff that was formally a very important issue about the office. Loyalty to the Crown was still a concern and because kings made and withdrew appointments at will, loyalty could be demanded. By the second half of the fifteenth century there was yet another decline in standards of the sheriff's duty performance. Because much of the obedience to kings had eroded, great barons began to gain power and the sheriff's ability to serve began to be restricted by this new political dimension. By the time of Henry VII (1457-1509), the office of sheriff had little political or governmental importance. The once undisputed administrator of the shire on behalf of powerful kings, had deteriorated into a much weaker and ineffective public servant.⁴¹

By the mid sixteenth century, the creation of the Lord's Lieutenant was yet another blow to the authority and power of the sheriff. This newly formed position superseded the military authority of the sheriff within the shire. Though the position was not specifically created to overthrow the sheriff from power, it did bring realization during times of serious domestic crisis that the sheriff was incapable of recruiting the local gentry to support the king's military causes. As time went on the Lord's Lieutenant generated duties other than military. He became vested with the power to enforce domestic laws, thereby further cutting into the sheriff's authority.⁴²

39. *Ibid.*, p. 62.

40. Stubbs, W. *Documents Illustrative of English History*, (Clarendon Press, 1874), pp. 469-474.

41. Elton, G.R., *The Tudor Constitution*, (Cambridge University Press, 1972), p. 451

BEGINNING OF THE PENITENTIARY MOVEMENT

Since the sixteenth century, the duties of sheriffs in England dealt chiefly with judicial issues, enforcement of debt, and service of process. Though it would eventually become little more than a ceremonial post, there was a time in the eighteenth century when there was a shining star in the position that would have considerable impact upon the future of criminal justice. John Howard, Sheriff of Bedfordshire, brought great status to his office by his committed and life long efforts to improve the conditions of prisons. Howard was the son of a merchant and was brought up within England's emerging middle class. In 1756, while travelling abroad to Portugal, he and the crew of the ship he was travelling on was captured by a privateer. Howard, the crew, and passengers were incarcerated in France under extreme conditions. He was eventually returned to England on parole and later he secured release of his fellow prisoners through negotiations with the French government. This unfortunate and wrongful situation influenced Howard with a life-long concern for the incarcerated.⁴³

After his return to England, John Howard became a country squire and petitioned the Crown for a position as sheriff so he could impact prison issues. In 1773, he was appointed high sheriff of Bedfordshire and in this position he became a social activist for penal reform. He exercised the traditional but usually neglected responsibility of visiting prisons and institutions. He was shocked at the conditions, particularly that jailers received no salary but made their living from prisoners in the form of fees. Many prisoners who had been discharged by the court system still remained in custody because they could not pay the discharge fees owed to their jailers.⁴⁴

Howard, with an impassioned drive, inspected prisons, prison ships, and houses of corrections throughout Europe and the United States. Universally, he found all the facilities overcrowded, undisciplined, dirty, and ridden with disease. Thousands of prisoners were dying annually of diseases that were aggravated by the conditions of their confinement. Howard's graphic descriptions of prison conditions horrified the English people. In 1779, he drafted the "Penitentiary Act" which would have a profound effect on the future of penology.⁴⁵

The "Penitentiary Act" was based upon principles of secure and clean facilities, systematic inspections by outside interest groups, the abolition of prison based fees, and a reformatory structure for the inmates. Prisoners were to be confined to individual cells at night and were required to work long hours at heavy labor during the day. Howard believed that prison should not just be a place for industry and labor but also a place for contrition and penitence. The purpose of a penitentiary, according to Howard, was to be a place that reformed inmates through the inculcation of good habits and religious instruction. All prisoners were to have healthy diets, access to conveniences that allowed for good hygiene, and all prisoners were to be provided with uniforms.⁴⁶

Finally, Howard saw that prison employment did not attract a high-quality staff. He felt that the best way to promote rehabilitation was to influence prisoners through a qualified staff that were interested in providing care. To attract a better caliber of officer, he proposed paying sound wages and to only hire "non-gambling" and "non-drinking" men

of high moral character. Though many of Howard's ambitions were idealistic and beyond the scope of the times, his work on prison reform provided the impetus for the penitentiary movement.⁴⁷

43. Clear, T.R. and Cole, F.C., *American Corrections*, (Wadsworth Publishing Company, 1997), p. 43.

44. Babington, A. *The English Bastille*, (New York: St Martens Press, 1971), p. 103.

45. Barnes, H.E., *New Horizons in Criminology*, (New York: Prentice-Hall, 1944), p. 461.

46. Clear, T.R. and Cole, G.F., *American Corrections*, (Wadsworth Publishing Company, 1997), pp. 42 and 44.

47. Duffee, D.E., *Corrections: Practice and Policy*, (New York: Random House Inc., 1989), p. 387.

DECLINE OF THE ENGLISH VERSION

Since midway through the sixteenth century until the present time, the office of sheriff in England has had little political clout or government importance compared to the wealth of power that it once had during medieval times. The position of justice of the peace had relieved the last vestiges of the position's former judicial duties. The Lord's Lieutenant took away its military importance and appointment powers of the office were taken away from the king and transferred to parliament. This took away all of the king's political patronage that had previously been so important to the position. The serious decline of the office might have been the death of the sheriff if it had not been for England's colonization. Finding new life on different soil would allow this faltering office to flourish in a transplanted environment. Invigorated in the New World, the office of sheriff would find a whole new potential.

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CHAPTER III

COMING TO AMERICA

SHERIFFS IN THE CHESAPEAKE COLONIES

The government that took hold in the American colonies was in many respects an adaptive form of English government. As settlers came to the new world and their communities expanded, so too did their need to govern. The first colonists arrived in Virginia in 1607, and by 1619 they became self-governing under the auspices of the English parent form of rule. The first form of law enforcement on the continent was not the sheriff but provost marshals and marshals who operated under a central authority for military matters from 1625 to 1627. In 1634, Virginia was divided by statute into eight shires, or counties, which was governed in an adaptation of the overseas model. Along with the shire form of government came the administrative position of sheriff. William Stone was appointed the first sworn sheriff in America by becoming the sheriff in the County of Accomac. The first sheriffs and other county officials in Virginia were selected from exclusive groups of large land holders within the counties. They were typically the most influential men and were able to hold more than one county office capacity at a time. William Stone served two consecutive terms in 1634 and 1635 and also served as a county commissioner during most of this interval. In 1648, after a distinguished multiple career in local government, Stone moved to Maryland where he was appointed governor by Lord Baltimore.⁴⁸

A series of statutes involving the appointment of county offices and office holders were created. A Virginia proclamation of March 13, 1651 required each county to choose a sheriff. In an interesting departure from the previous appointment process, which would prove to be prophetic in future years, the commissioners of Northampton County Virginia asked its inhabitants to elect its sheriff. William Waters became the first elected sheriff in America. The Northampton County record of 1651 reads:

"That this day Leift. Wm. Waters a gent. Accordige to the Instruccons directed to ye Comissions & Inhabitants of this County By Pluralitie of voyces was nominated & made choyce of to be high sherr of Northampton Counties from this present daye dureinge ye accustomed tyme"⁴⁹

The steady dispersion of people in the Chesapeake area gave way to a constant increase in the importance of local governmental units. In 1640, there were ten counties in Virginia. By 1664, that number had grown dramatically to nineteen counties. A similar increase occurred in Maryland. As the distance between the settlers and provincial capitals expanded the more the demand increased to have decisions made on a local level. As the populations grew and spread out, it became increasingly difficult for the governor to handle issues. The county courts embraced duties affecting the entire local government. Wills were probated with a county clerk, tavern keepers filed for licenses with county commissioners, and all official documents were filed at the county level. These were all things that were formerly done at the provincial capital.⁵⁰

The sheriff of the county became the ranking police and financial officer. He served warrants, made arrests, and most notably, he collected taxes. By 1676, Virginia was under full authority of England's sovereignty and laws were enacted to establish that England's benefits be extracted, in the form of taxes, from Virginia's county residents.

The governor's justices levied annual taxes and framed local ordinances to establish the collection of taxes. Rules were revised to assist in this process, and the newly commissioned sheriff's first and foremost duties were to collect taxes on behalf of the Crown.⁵¹

Along with the American introduction of the office of sheriff came the position of the sheriff's second in command, the "under-sheriff". This position was designed to augment the sheriff, which was becoming evermore multifarious. The under-sheriff was authorized to act on behalf of, or in place of the sheriff with regard to enforcement issues within the county. By his contract with the sheriff, the under-sheriff was bound to attend every county court session to receive directions from the tribunal. He would then report back to the sheriff the accounts and commands of the court. Further, he was responsible to effect the sheriff's arrests, attachments, executions (the seizing of property), and all other concerns involving the office of the sheriff. In consideration of all the services required by the sheriff, the under-sheriff was to have all his expenses paid and he was to receive one-half of the fees that he obtained from writs and bonds that he executed. William Stone, the colony's first sheriff, agreed to pay his under-sheriff one-half of all the fees he collected but in turn he required his under-sheriff to remit one-third of that to his deputy.⁵²

Before 1660, the sheriff, the under-sheriff, and the deputy sheriffs performed all functions of the office in a similar manner. As counties became more complex and the business before the courts increased, new appointees of the sheriff appeared. In 1664, a position of court crier was established by the sheriff as a separate position within his scope of authority in Northampton County. In 1679, the sheriff of Middlesex appointed a jailer to operate the county prison. While both of these positions were officials appointed directly by the sheriff, they were paid for by separate tax levies from their respective counties.⁵³

County government in Maryland was similar in most respects to that of county government in Virginia. In 1676, Maryland established local control of government in its province. Delegates were elected on a county level and in assembly sessions they wrestled with local issues of importance involving taxes, fees, port duties, property rent, and land policies. Central to these issues was the authority of provincial courts to establish and enforce rules of taxation. In Maryland, as in Virginia, the county sheriff was the officer of enforcement and the collector of taxes, as directed by the courts. Many of the English institutions found in Maryland were so similar to that of Virginia that they appeared to be a direct copy.⁵⁴

Maryland sheriffs were required to be property owners just like the Virginia prototype. Similarly, larger land owners were the political elite. These large landowners monopolized county government positions. While the sheriff could hold other county office, he could not sit in the Assembly while holding any other county position. Numerous complaints against sheriffs for various abuses within office was cause for Assembly reform legislation in 1678. This legislation set term limits for Maryland sheriffs and under-sheriffs. The legislation limited the sheriff to a single one year term unless a certificate from county court could be obtained that attested to the "honest and efficient execution of office during the preceding year". The purpose of the ordinance was not specifically designed to limit the term service of the sheriff but rather instituted a procedure to oversee the extension of the sheriff's service with an included form of checks and balances.⁵⁵

The sheriff in the colonies was responsible through the county courts to carry out orders of corporal punishment against offenders. He was responsible for building and maintaining common devices of the day that created or assisted with the mechanics needed for such punishment. Objects like stocks, pillories, whipping posts, and ducking stools were all common apparatus used by the sheriff to inflict pain and humiliation as prescribed by the courts. Court records contain numerous mention of sheriffs being ordered to place a violator in stocks for a prescribed period of time or to whip offenders in public display as mandated by the court. One particular court record reveals that a colonial sheriff was ordered by the court to:

"nail John Goneere by both ears to the pillory, with three nails in each ear, and afterwards to whip him with twenty good lashes for perjuring himself."⁵⁶

Disrespect for the court was considered a serious offense and severely punishable in colonial America. It is doubtful that English judges defended their court any more vigorously than members of the colonial county court bench. A Baltimore (later Baltimore) court ordered the sheriff to place a man in stocks after he used "mean words" to the court. The justices were equally resolute to insure respect for the office of the sheriff. A Norfolk judge fined a man for abusing its county sheriff. After the fine was levied he further ordered the man whipped. The court record indicates the judge's elocution:

"For opprobrious language uttered against the sherr in contempt of his office & consequently the authority whence it derives, the Charles City County court orders that Benjamin Cartwright receive from the sherr two lashes upon his bare shoulders".⁵⁷

The fiscal duties of the sheriff were considerably more important in the American colonies than they were during the same period in England. In the colony of Virginia the sheriff was responsible for not just the royal revenues but more importantly the most productive of the colonial receipts, that being the poll taxes. A Virginia Act of 1661 and 1662 provided for a systematic census taking by dividing the counties up into precincts. This allowed for a more exact count of assessable persons, thereby, allowing the sheriff to be more methodical in extracting the tithable assets from the community. Three levies: the public, the county, and the parish were collected by the sheriffs. In many counties the sheriff was authorized to keep ten percent of the taxes he collected as his personal poundage. In York County, its sheriff was rewarded 3159 pounds of tobacco for his cut in the collection of tax for the year 1658. The large commission received for collecting three poll taxes made the office of the sheriff a very desirable position.⁵⁸

The role of sheriff in Maryland was slightly different than that of the Virginia sheriff. Here the sheriff was also responsible for the collection of poll taxes but for only a few years, when the duties were transferred to a county commissioner. When he did collect these taxes, the sheriff did not officially receive a percentage of the tax. He was however, allowed to receive a percentage of the debt he collected on behalf of creditors. The sheriff in Maryland was also allowed to collect fees from prisoners in his custody. In addition to this, the Maryland sheriff was permitted a ten percent commission for collecting the Proprietor's Rent, revenues, and fines on properties held by landowners and leased to persons working the land.⁵⁹

48. "Accomac County Records", 1632-1640, - Karracker, C.H., *The Seventeenth Century Sheriff*, (Chapel Hill: The University of North Carolina Press, 1930), pp. 66-69.

49. *Ibid.*, p. 74

50. Hawke, D., *The Colonial Experience*, (Indianapolis: The Bobbs - Merrill Company Inc., 1966), pp. 184-186.

51. Webb, S.S., *1676: The End of American Independence*, (New York: Alfred A. Knopf, Inc., 1984), pp. 32-33.

52. "Accomac County Records", 1640-1645, p. 150. - Karracker, C.H., *The Seventeenth Century Sheriff*, (Chapel Hill: The University of North Carolina Press, 1930), pp. 80-81.

53. "Northampton County Records", 1657-1664, p.191. and "Middlesex County Records", 1673-1680, p.176. - *Ibid.*, p. 81.

54. Craven, W.F., *The Colonies in Transition 1660-1713*, (New York: Harper & Row, Publishers, 1968), pp. 163-164.

55. Karracker, C.H., *The Seventeenth Century Sheriff*, (Chapel Hill: The University of North Carolina Press, 1930), pp. 86-88.

56. "Provincial Court Proceedings", 1637-1650, p. 393. - *Ibid.*, pp. 103-104.

57. "Baltimore County Records", Liber, F., 1691-1693, p. 345. and "Lower Norfolk Records", order of May 22, 1679. - *Ibid.*, p.105.

58. *Ibid.*, pp. 130-135.

59. "Proceedings of the Council", 1636-1667. - *Ibid.*, pp. 138-144.

SHERIFFS IN THE OTHER COLONIES

The central government of colonial Connecticut consisted of a Governor and a General Assembly. The assembly consisted of the Governor's assistants and Deputies of the towns. Members of the assembly were paid for their services out of the colonial treasury. In 1698, a law was passed that provided for four noble freemen to be appointed to the position of justice of the peace. In 1750, county courts were established in all five of Connecticut's counties to hear civil and criminal matters. The enforcement issues of the county were to be handled by five appointed county sheriffs, who were appointed by the governor. The sheriff would bring offenders before the court and carry out mandates. The sheriff in Connecticut was expected to serve and execute all lawful writs, to have power of the "water bailiff" (having authority to search vessels) and to raise the hue and cry as needed. With the advice of the justice of the peace the sheriff was also empowered to raise a militia.⁶⁰

It was the Connecticut sheriff's duty to arrest and bring before the courts capital offenders such as murderers, worshippers of strange gods, witches, blasphemers, rapists, sodomists, adulterers, kidnappers, those bringing false testimony, and anyone rebellious against the colony. Two other offenses were added to Connecticut's capital offense list in 1750. Those being the cursing of parents by a child over the age of sixteen, and "stubbornness" on the part of a child over sixteen. If these offenses were not enough to keep a sheriff busy with enforcement matters, there was a multitude of lesser crimes requiring branding, mutilation, whipping, the pillory, the stocks, imprisonment, and fining. For example, a sheriff might have been ordered by the court to brand a letter "B" on the forehead of a

burglar, as a first offense. Or a sheriff might have been required to whip an incorrigible person on direction of the court. Sheriffs were routinely required to restrain people from unnecessary walking in the streets or fields, swimming, keeping open their shops, or performing their secular occupation on the evening of the Lord's Day, or that day following. Those convicted of profaning the Holy Day itself were severely whipped in public.⁶¹

Sheriffs were high officials in New York during colonial times and were also enforcement officers for the court. In 1755, Abraham Yates, high sheriff of Albany County, arrested a Massachusetts Bay man over a property dispute. Angered by the apprehension, fellow Massachusetts Bay townsmen kidnapped the prisoner and arrested Sheriff Yates for offending their fellow citizen. Before Yates was released, the Massachusetts court set bail to assure his reappearance. New York Lieutenant Governor James de Lancey, was furious by this act of disrespect to a man of Yates' high position and directed a proclamation to arrest the parties that defiled the authority of his sheriff and his province. This resulted in the killing of William Rees, a Massachusetts Bay man who resisted arrest. Governor Phips of Massachusetts countered with a proclamation of his own, ordering the arrest of the men who were involved in the killing of Rees. This ultimately resulted in the imprisonment of Sheriff Yates in a Massachusetts "gaol" (early spelling of jail) that required the intervention of New York Governor Shirley. Eventually the whole issue was settled in order to secure harmony between the two colonies that were facing an even greater struggle between the English and the French.⁶²

By the late 1760's, the political institutions of every colony had a localized form of administration. From Pennsylvania to Georgia, government had reached into the back settlements of their jurisdictions and formed smaller management units. Along with this came positions to make for orderly government. County courts, county sheriffs in enforcement capacities, and representation to provisional assemblies came on the heels of localization. Justices and sheriffs in most Northern colonies were appointed. The exception was in Pennsylvania, where the sheriff was elected locally, but was subject to approval from the governor. The appointed offices, particularly the powerful position of sheriff, usually went to trusted men who would represent the interests and political philosophies of the provincial government leadership.⁶³

North Carolina was prompted to extend the county system into its newly settled areas. Though the local government was widely accepted, there were problems with malpractice by county officials and those empowered to manage public affairs. Dilemmas occurred with court officials who extorted outrageous fees from its litigants. There also was a serious lack of roads and bridges, and there was severe under representation of the back-country people in the assembly. But it was the 1760's sheriff that caused the most turmoil. It was suspected that the sheriffs were stealing at least one-half of all the taxes that they collected. The same problem began to occur in South Carolina, where regulations had to be established to reform the office and to prevent abuses by county government officials.⁶⁴

60. Gipson, L.H., *The British Isles and the American Colonies, Vol. III.*, (New York: Alfred A. Knopf, 1960), pp. 88-90.

61. *Ibid.*, pp.91-93

62. *Ibid.*, pp. 107-108

63. Hawke, D., *The Colonial Experience*, (Indianapolis: The Bobbs - Merrill Company, Inc., 1966), p. 505.

64. *Ibid.*, pp. 508-509.

POSSE COMITATUS

Since the time of the early reeves in England, when help was needed to apprehend a criminal, a hue and cry could be made to enlist support with law enforcement efforts. The tradition followed the sheriff to the New World and it would become a foundation of law. As well as being a basis of law, it became a stimulus which would capture the imagination of the American people and serve to inspire their will with regards to law and order. It invested the citizens in the law enforcement process and served to extend the office's usefulness by enabling and allowing for unlimited manpower resources at times of greatest need. In America the latin term "posse comitatus" was used to describe this volunteer effort. Literally translated, posse comitatus means "the power of the county". The authority of the posse comitatus was acquired through the powers of the office of sheriff and allowed the sheriff to recruit any person over the age of fifteen to aid in keeping the peace or to assist in the pursuit of felons. These efforts could be made with the presence of, or the absence of the sheriff. Much of the philosophy of law regarding citizen's arrest powers are founded in the posse comitatus premise.⁶⁵

During the War of 1812, the power of the posse comitatus was used in an incident that indirectly resulted in the writing of America's national anthem. When the British Army marched on Washington they passed through Upper Marlborough, Maryland. The local residents there were cooperative with the invading Army and in exchange for their cooperation little damage was done to the residents. After the battle of Bladensburg and the burning of Washington, the British army marched back through Upper Marlborough, but this time the troops were a bit more rambunctious. The soldiers looted local properties and set fire to some of the homes in the community.⁶⁶

A local resident, Dr. William Beanes, was so angered by the situation that he gathered a group of associates and headed a body of Upper Marlborough citizens to take up arms and responded to a hue and cry to arrest the marauders. The posse comitatus tracked the a group of soldiers to a local tavern where they had been drinking and making quite a commotion. Vested with the powers to make a citizen's arrest, the posse rounded up the gang of ruffians and placed them in the custody of the sheriff at the Upper Marlborough jail. This information was quickly transmitted back to the British camp where the action of Dr. Beanes was not well received. The British commander dispatched orders to arrest Dr. Beanes and his posse.⁶⁷

Dr. Beanes and others were arrested and held for ransom on a British warship in Baltimore Harbor. A prisoner exchange was suggested that would involve Dr. Beanes and his group being exchanged for the release of the British soldiers that were awaiting trial in the Upper Marlborough jail. As Dr. Beanes was, what we would consider in today's parlance, "politically influential", a choice team of ambassadors was sent to negotiate his release. One was a United States government agent and the other was a brilliant young lawyer named Francis Scott Key. Key held some influence himself and was brother-in-law of the Chief Justice of the Supreme Court, Roger B. Taney. During the several days of negotiations to seek the release of Dr. Beanes and the posse, Francis Scott Key witnessed an attack on Fort McHenry. Standing on the deck of an American ship, Key

looked through a telescope and observed the fighting. Seeing that the American flag was still there meant that the British had failed in their attack on Baltimore. He was so overwhelmed by the sight that he was inspired to express his feelings in verse which was to become *The Star Spangled Banner*.

The posse comitatus would become shortened to a vernacular version of just "posse". The American posse would become a mainstay of law enforcement discharge in the years to come. It would be employed to a great extent in the American Wild West period as a regular tool of marshals and sheriffs. The American posse would become romanticized in dime store novels and newspapers throughout the era. In later years it would again be romanticized in movies and television programs. The posse continues to be used in contemporary terms and still serves useful law enforcement purposes in many parts of the United States.

65. Rembar, C., *The Law of the Land: The Evolution of our Legal System*, (New York: Simon and Shuster, 1980), p. 69.

66. Weybright, V., *Spangled Banner*, (New York: Farrar & Rinehart, Inc., 1935), pp. 106-108.

67. *Ibid.*, pp.110-111.

CHAPTER IV

SHERIFFS MOVE WESTWARD

THE MOVE WEST

In American history, the frontier was the western most area of settlement at any given time during the westward expansion of the nation. It began in Jamestown in 1607 and the line kept moving west. The period of time known as the "Wild West" was from about 1835 until 1895, and the area for which it identifies was roughly the land west of the Mississippi River. The West was harsh and rugged and in order to conquer it, only the brave and strong could survive. The Louisiana Purchase of 1803 almost doubled the size of the country and there was no shortage of settlers heading toward the setting sun. Many attitudes and principles accompanied these migrants. Rugged individualism, conquest, progress, free enterprise, the right to bear arms, and law and order principles reinforced American ideals. The sheriff was a major player in these processes.⁶⁸

A number of factors lured men and women to the new frontiers. Land, gold, and other economic incentives were part of the lure. Transportation availability such as trails, roads, canals, river boats, horse drawn vehicles, and later trains aided in the movement of people and their possessions. Moving west became a compulsive urge. Adventure and romance fueled the desire to pull up stakes and head in the direction that the sun was travelling. To millions of Americans, the frontier was a place to go simply because it was there. Fertile soil, abundant game, and lack of restrictions constituted the stuff of dreams. Even though the frontier did not always live up to its envisioned potential, many who went there felt compelled to keep the dream alive rather than to admit the truth. This helps explain the tendency of the people of the frontier to embellish tales about the good things being very good and the bad things being very bad. Dime novels and other accounts of the Wild West were sometimes based upon fantasy, or at least exaggerations of the truth. However, what people perceive as the truth may be just as important as the actual truth itself. Generations of people have been enamored with this period and its tales of adventure. The associated violence, or the enhanced versions of violence, have added to the mystique. At the center of much of the romanticized versions of the era was the Western sheriff.⁶⁹

Social misfits of various sorts, who had failed for various reasons in the East followed the allure of the West and all its attractions. Thus, the West became a refuge for the potentially violent and lawless. The maladjusted became a basic equation for social turmoil. The heterogeneous population in the territories required a local control to deal with the complex issues of turbulence and crime. This was all very much like the need for local controls in government form that were needed in medieval England and Colonial America. As a result the office of sheriff was a ready-made entity to deal with the issues of crime on a local level. The idea that a position of this nature could be elected gave it an added dimension. It could reflect the needs of the community, and the citizens could have a direct input into the process of law and order by virtue of their vote. As the noted legal scholar and later eminent member of the United States Supreme Court, Oliver Wendell Holmes once wrote:

"The first requirement of a sound body of law is that it should correspond with the actual feelings and demands of the community, whether right or wrong".⁷⁰

The early settlements of the West were small and isolated and usually exhibited a reasonable amount of peace and order. Violence existed more as a by-product of the era and environment rather than a demonstration of true and total lawlessness. The majority of the settlers came to build a new life in the West, and crime was not their original intent. Small-mindedness and petty thievery were rare among frontier people. A stranger was considered honest until proven otherwise and it was taken for granted that any traveler stopping by was welcome to stay for food and lodging. Locks symbolized an impeachment of public honesty and integrity and frontier people frequently did not secure their homes and businesses. Similarly, a man's word was his bond and the owners of various mercantile enterprises sold on credit and advanced merchandise without collateral. Some customers rode hundreds of miles to settle accounts as soon as they had money. If a fellow citizen violated a community standard, banishment became a popular form of settling the issue. General indignation or scorn from a community was a powerful weapon against violators of good order. If reformation of an offense could not be made the perpetrator was "hated out" by the fellow members of the community and forced to leave or face uncomfortable circumstances.⁷¹

Most citizens in the West lived peacefully and without great fear of personal attack. The six-shooter was far more useful against snakes than against criminals. As a place of wild lawlessness, the frontier's reputation was largely over-exaggerated. In reality, the West did not attract extreme numbers of lawless deviants and most settlers were friendly, hard working, and just. The majority literally practiced the biblical adage of being their brother's keeper. American folklore supports the image of tough, aggressive, and brave heroes who tamed the wild frontier. The deeds of these men, whether real or embellished, have served as cultural metaphors of how Americans view themselves. In many respects the issues of crime and the crime fighters that tamed the Wild West are overstated. However, violence and crime were dramatically in existence during this period and sheriffs were an important part of crime fighting matters in the nineteenth century West.⁷²

68. Rosa, J.G., *The Gunfighter: Man or Myth?*, (Norman and London: University of Oklahoma Press, 1969), p. 14. 69. Hollen, E.W., *Frontier Violence*, (New York: Oxford University Press, 1974), pp. 214-216. 70. Holmes, O.W., *The Common Law*, (Boston: Little Brown and Company, 1923), p. 41. 71. Branch, D.E., *Westward: The Romance of the American Frontier*, (New York: Cooper Square Publishers, Inc., 1969), p. 84. 72. Prassel, F.R., *The Western Peace Officer: A Legacy of Law and Order*, (Norman: University of Oklahoma Press, 1972), pp. 22-23.

THE GUN CULTURE

Weapons accompanied persons in the migration westward. Practically every man who went to California during the Gold Rush went there with a weapon in his belt or hip pocket. Brigham Young urged his followers coming to Utah to do so bearing arms to protect themselves from Indians and outlaws⁷³. The handgun became as much a part of the cowboy paraphernalia as the wide-brimmed hat and high-heeled boots. The shooting mentality became an adapted form of gaining recognition and respect. For those who felt insecure or were trying to prove a point, the six-shooter became "the great equalizer". The outlaw or the anti-social misfit of the Wild West era could achieve fame through gun violence. To "die with one's boots on" was a clear inspiration of the western bully fortified with a gun. Whether this was a Freudian phallic symbol, or merely a bold impressionistic character of the West, remains arguable. But the undeniable presence of weapons and the violence that was collateral to weapon possession created a need for a specific law enforcement response.⁷⁴

There was no greater symbol of violence in the West than the pistol. The common availability of the six-shooter in the American frontier added a new dimension to violence. Common disagreements transformed rapidly into deadly encounters. The mechanical ingenuity of Samuel Colt, with his revolving handgun in 1835, enabled a person to pre-load six shots into a single weapon that needed no priming. The weapon could be used while on foot or horseback and the multi-shot capability increased lethality. Many people carried more than one six-shooter to increase their capacity of killing power. Before the appearance of the revolver, the common weapon for ruffians and homicidal criminals, was a knife to slash or stab or an impact weapon to bludgeon a victim. The new deadly efficiency of the six-shooter spawned the common expression:

"There is more law in a Colt six-gun than in all the law books".⁷⁵

By the 1850's there were about as many revolvers in Texas as there were adult males. Members of the average Western community accepted guns as an everyday piece of their basic equipment. There were unofficial rules involving gunfighting that often times determined whether a shooting would be considered a criminal offense. Ambushing, sniping, or "backshooting" were not condoned, and beyond being illegal, it was an unpardonable act of cowardice. Much of the determination in this was in the account given by the surviving member of the gunfight who would often times persuade others that an ambush was actually an act of overt bravery. Killing someone in the commission of another crime, such as robbery, was inexcusable. Shoot-outs were generally accepted, particularly if the surviving member could convince others that the other party drew first. Many people of the time felt that persons killed in gunfights probably "needed shooting anyway". The Western gunfight was in reality a variation of the honorable duel, which had been an acceptable form of dispute resolution even prior to the advent of gunpowder. Casual investigations of the circumstances involving shootings generally satisfied the authorities and whatever law that may have existed.⁷⁶

Men returning from the Civil War were trained in the basic skills required in shooting. They knew how to handle weapons and were not strangers to killing. Some turned to gun related violence because it led to lucrative crimes, and others because they were merely callous and hardened by a continuous fight for survival. Lives were cheap and murder was not surrounded by the protection of an overwhelming sense of morality. White ethnic superiority existed in those days and it was not considered a universal crime to kill a

Mexican and a common theme espoused: "that The only good Indian was a dead Indian".⁷⁷

The six-shooter became an instrument of lawmen as well as outlaws. Whereas the long rifle had been the primary weapon in the earlier days of the country, it was the six-shooter that would tame the Wild West. At close range, the revolver was unrivaled in reliability and fire power. This made it a highly persuasive piece of equipment to demand compliance. Often times the threat of a pistol discharge was extremely convincing and an actual shooting was averted. Ability with a sidearm was a desirable trait for Western peace officers. Proficiency with a handgun and willingness to use one was a highly sought after attribute for a sheriff candidate in those days. It was the gun toting sheriffs of the period that helped transform the territory from an untamed wilderness to a continent-wide nation.⁷⁸

Much has been made over the amount of gun related violence in the Wild West. Dime novels, movies, television serials, and numerous adventure stories about the period have romanticized the image of this violence. The "western" drama has become the American version of the morality play. Black-hatted villains being out-drawn by the "good-guy" lawman wearing the white hat has provided the basic theme of good overcoming evil. Many accounts of the period tell us that much of the violence is over-stated and exaggerated for the purpose of theatrics and drama. However, the influence of gun related violence was a common form of conflict settlement. "Gunfighting" was the appropriate term for which it would be known, and it was an accepted form of altercation in the Wild West. Many times it was a permanent way of settling dissension. Between the years 1850 and 1890, approximately twenty thousand men died in the West by this form of duel.⁷⁹

73. Merk, F., *History of the Westward Movement*, (New York: Alfred A. Knopf, 1978), pp. 337-338.

74. Hollen, W.E., *Frontier Violence*, (New York: Oxford University Press, 1974), pp. 110-111.

75. *Ibid.*, p. 106.

76. Rosa, J.G., *The Gunfighter: Man or Myth?*, (Norman and London: Oklahoma University Press, 1969), p.61.

77. Hendricks, G., *The Bad Men of the West*, (San Antonio: Naylor Publishing Inc., 1950), p. 5.

78. Rosa, J.G., *The Gunfighter: Man or Myth?*, (Norman and London: University of Oklahoma Press, 1969), p. 28.

79. Mcloughlin, D., *Wild and Woolly: An Encyclopedia of the Old West*, (New York: Barnes and Noble Books, 1996), p. 206

SIN, ALCOHOL, AND VICE

Sin, alcohol, and other vices often provided inspiration for crime and violence in the West. Most mining camps, cowtowns, and boomtowns probably bore a close resemblance to biblical descriptions of Sodom and Gomorrah. The principle enterprise of these towns was the saloon and all activities revolved around it. The saloons incorporated gambling and brothels within the atmosphere of heavy alcohol consumption. Combined with the fact that almost every man was armed, disaster was not likely far behind. To keep issues of sin and vice in check came a need for regulation and enforcement.⁸⁰

The influence of women, alcohol consumption, gambling, and guns often provided immediate provocation for crime. Women, though they would eventually become a

stabilizing influence in the West, provided for many violent encounters. Fighting over the affection of the relatively few women in the territories sparked many hostile and destructive feuds between males. Across the frontier, women were ever present in organized houses of prostitution. Sometimes they were opulent and luxurious bordellos but more commonly they were seedy bawdyhouses that were centers of disease, crime, corruption, and white slavery. Accompanying the houses of ill repute were excesses of gambling and drinking. The combination of these vices added to an atmosphere of unbridled immorality and decadence. Crimes of vice are often times referred to as crimes without victims, but the abundance of these vices undoubtedly led to companion crimes against persons and property. The prevalence of the excesses of the era allowed the adjective "wild" to be added to the term "Wild West".⁸¹

In 1880, Western towns had a liberal attitude toward the "sporting" life. San Francisco, California had 8,694 saloons while Boston, Massachusetts, with half the population had only 2,343 saloons. Leadville, Colorado boasted 100 bordellos to service a total population of only 14,820. Although during the same period New York City and New Orleans led the nation in saloons and houses of prostitution per capita, it was a generally accepted doctrine that sex and alcohol consumption in the Wild West was widely accepted and widespread during the era.⁸²

80. Hollen, W.E., *Frontier Violence*, (New York: Oxford University Press, 1974), pp. 197-198.

81. Jordan, P.D., "Lady Luck and Her Knights of the Royal Flush", *Southwestern Historical Quarterly*, Vol. LXXII, No. 3 (January 1969), pp. 299-300.

82. "Social Conditions of Cities", 1880, *Report on Defective, Dependant, and Delinquent Classes*, Serial# 2151, pp. 566-574, Table 1.

OTHER ISSUES OF CRIME

Vivid and dramatic episodes depicted by writers of the day and popularized in subsequent films, books, and television programs do have foundation in fact. Cowboys shooting up towns in drunken sprees, horse thievery, bank robberies, stage hold-ups, and the like, constituted significant problems for communities in the Wild West. Crimes of this nature often made for uncomfortable human complications. Geographical and cultural isolation gave rise to a peculiar type of organized crime known as the bandit gang. In the vastness of the region, these organized groups of outlaws sought refuge from law enforcement. Special patterns of lawlessness developed with owners of cattle and sheep and the rustling of their livestock presented profound problems. Violent feuds between cattlemen and sheepmen also developed and the results culminated in some very famous gunfights.⁸³

The herding of loose cattle and mustangs was a lucrative trade for many cowboys. This stock belonged to no one any more than did the deer, antelope, or buffalo. The first-come and first-served notion of gathering these animals often caused issues of violence. As the wild herds were depleted, rustling of livestock from owned herds became a common crime. Unique forms of forgery to change the brands on the owned animals subverted identification efforts. Commonly, livestock was driven far enough away to avoid apprehension. Once the cattle were converted to steaks and the profits were garnered, the theft was unprovable. The rustling of cattle and horses became an important enforcement function for the Wild West sheriff.⁸⁴

When gold and silver was discovered in California, Colorado, Montana, and elsewhere, beginning in about the middle of the nineteenth century, the picture of the West changed dramatically. The most obvious change was the dramatic influx of population. Seeking riches, hordes of settlers and prospectors went west. In 1845, California had less than 15,000 residents of European descent. By 1852, that number had soared to 250,000. The wealth of the mining towns of California and the Rocky Mountains held a natural attraction for those who would rather steal gold and silver than to dig for it. Rules of cooperation were made and laws were created to preserve order. In many mining camps they elected a presiding official, a claims recorder, and often times a judge and a sheriff to deal with the various issues of control and enforcement.⁸⁵

The robbing of public transportation conveyances became another issue of crime activity in the Wild West. Because there were vast distances between communities on the frontier, transportation between two points required long, isolated, and unprotected movements. The transportation of people, goods, and money on stage coaches and trains fell prey to road agents who would strike out against the vehicles in secluded areas. The spacious territory and lack of communications made it extremely difficult for sheriffs to track down these outlaws. The hold-ups of these transit lines became so pervasive that the companies eventually hired private security and armed guards to accompany passengers and payroll that were being transported throughout the frontier.⁸⁶

Horse stealing in the West was also widespread and was considered a serious offense. It was often times judged even more serious than shooting a man and horse thieves routinely were hanged for the offense. Groups of semi-organized outlaws rampaged throughout the frontier to steal horses. In 1869, a Kansas newspaper editor remarked:

"That hardly a day passes without one or more cases of horse-stealing coming to our ears. At the penitentiary one-fourth of the convicts are in durance for offenses connected with the horse, and many more are outside than are in".⁸⁷

No analysis of crime in the Wild West can be made without references being made to the courts of the era. While the majority of Western judges probably had the best intentions and wished to uphold the highest standards, the reputations of the courts did not always reflect this. Some considered legal tribunals of the era as an aggravation of crime itself. Criticisms of formal justice were abound. A typical statement of the time reflecting this is found in Popular Tribunals of 1887:

"Courts of law are in bad repute these days. Venality and corruption sit upon the bench in the form of duelling, drinking, fist fighting, and licentious judges. Where the people look for justice, they find too often jokes and jeers. It is not uncommon to see a judge appear upon the bench in a state of intoxication, and make no scruple to attack with fist, cane, or revolver any who offend him".⁸⁸

83. Prassel, F.R., *The Western Peace Officer: A Legacy of Law and Order*, (Norman: University of Oklahoma Press, 1972), pp. 8-10.

84. Foder, E. and Fisher, R.C., (Eds.), *Old West*, (New York: David McKay Company Inc., 1976), p. 83.

85. *Ibid.*, pp. 81-82.

86. McLoughlin, D., *Wild and Woolly: An Encyclopedia of the Old West*, (New York: Barnes and Noble Books, 1996), pp. 543-544.

87. *Leavenworth Daily Commercial*, October 5, 1869.

88. Prassel, F.R., *The Western Peace Officer: A Legacy of Law and Order*, (Norman: University of Oklahoma Press, 1972), pp. 12-23.

SHERIFFS HELP TAME THE WILD WEST

Confronted with serious issues of crime, disorder, vice, and violence, the pioneers of the old West turned to members of their communities to enforce order. With a multi-century background and history, the office of sheriff was a natural addition in this environment. Selection could be made by appointment, or in most cases by popular vote from community residents to select a sheriff. The county-wide jurisdiction of the office fit very nicely in the law enforcement efforts and supervision of the vast countryside. The ability of the sheriff to respond to the hue and cry and to raise a posse helped greatly with the issues of crime and the isolated nature of the frontier. The office that had evolved over the centuries was a "hand in glove fit" for local law enforcement in the Wild West.

The office of the sheriff spread from community to community throughout settled areas west of the Mississippi. In 1823 and 1824, the colony of San Felipe de Austin formed a set of community rules that included a justice of the peace and an appointed sheriff to enforce regulations. In 1836, the adaptation of a constitution for the newly created Republic of Texas formally required these positions and read in part:

"There shall be appointed for each county, a convenient number of Justices of the Peace, one sheriff, and one coroner, who shall hold their offices for two years, to be elected by qualified voters of the district or county, as Congress may direct. Justices of the Peace and sheriffs shall be commissioned by the President [of the Republic]".⁸⁹

The provisions of the Constitution remained unchanged and the Texas laws endured through the Civil War and Reconstruction period. With minor exceptions to the term of office and removal clauses, the office of sheriff continues in the State of Texas largely as it was in 1836.⁹⁰

In other regions of the West, these developments ran parallel to the Texas experience. California, for example, had similar laws that provided for the election of sheriffs and other county officials. Even isolated areas of the West generally had a sheriff as their governments developed. By 1861, laws evolved in Colorado that brought an elected sheriff to even the most remote counties of the district. In 1868, Wyoming had appointed sheriffs, as directed by the Governor. Newer legal provisions varied but essentially statutes called for an elected sheriff to be the primary police agent for the organized county governments. Terms usually varied between two and four years and a variety of checks and balances were placed providing for the removal of an official.⁹¹

Sheriffs were generally allowed to hire assistants or deputies to help with the day to day responsibilities of his office. He was also allowed to appoint citizens to perform certain functions to preserve the peace. The posse comitatus, or power of the county, enabled sheriffs to summon aid. An 1861 Colorado statute formally called for this procedure:

"When any felonious offense shall be committed, public notice thereof shall be immediately given in all public places near where the same was committed, and fresh

pursuit shall forthwith be made after every person guilty thereof by sheriffs, coroners, constables, and other persons who shall be by any of them commanded or summoned for that purpose"⁹²

Similar statutes were formalized in other areas of the West recognizing the doctrine of posse comitatus to preserve the peace.

Along with general powers of arrests, states gave sheriffs widely divergent privileges. Wyoming allowed for sheriffs to use a residence for his law enforcement purposes at county expense. New Mexico extended jurisdictional limits of the sheriff to permit him or his deputies to enter all counties in the state to affect an arrest and to have concurrent rights of posse comitatus in every county. While the duties of sheriffs and their deputies were multitudinous, the primary law enforcement functions were virtually identical throughout the early West. A 1861 Nevada statute illustrates typical duties of the sheriff:

"It shall be the duty of Sheriffs and of their deputies to keep and preserve the peace in their respective counties, and to quiet and suppress all affrays, riots, and insurrections for which purpose, and for the service of process in civil and criminal cases, and in apprehending or securing any person for felony, or breach of the peace, they may call upon of their county"⁹³

As chief law enforcement officer of the county, the sheriff performed diverse duties. In many jurisdictions he served as tax collector, similar to the duties of the colonial sheriff. Also in contrast to its colonial forerunner, the sheriff had to administer corporal punishment, as directed by the courts. The sheriff often times was required to carry out the sentence of death. Rustic executions in the Wild West were performed primarily by hanging an offender. Sometimes sheriffs constructed formal gallows for this purpose, and other times a rope was simply tossed over a stout tree limb to accomplish the execution. Other duties of the office, collateral to the crime fighting duties, were rather mundane and involved the service of process or other civil enforcement functions, that were performed usually under peaceful conditions. Some counties prescribed rather peculiar duties like inspecting cattle, fighting fires, or eradicating prairie dogs. No matter what the specific duties of a community required, universally by the later part of the nineteenth century, the sheriff occupied the preeminent position in law enforcement throughout the West.⁹⁴

There were many laws directing the appointment of sheriffs, but there were none directing prescribed procedures for the post. Most times the sheriff simply did things by the way his personality guided him. There was no formal training for the position and there was no standardization. That is until David J. Cook, a 1860's Colorado sheriff and an 1870's Denver police chief, compiled a basic set of rules which became somewhat of a standard operating procedure for Western peace officers. Reputed to have arrested some three thousand criminals during his years as a Colorado peace officer, Cook developed rules called "Self-Preservation" in his 1882 book, Hands Up! or Twenty Years of Detective Life in the Mountains and on the Plains. The rules are as follows:

I. Never hit a prisoner over the head with your pistol, because you may afterwards want to use your weapon and find it disabled. Criminals often conceal weapons and sometimes draw one when they were supposed to have been disarmed.

II. Never attempt to make an arrest without being sure of your authority. Either have a warrant or satisfy yourself thoroughly that the man whom you seek to arrest has committed the offense.

III. When you attempt to make an arrest, be on your guard. Give your man no opportunity to draw a pistol. If the man is supposed to be a desperado, have your pistol in your hand or be ready to draw when you make yourself known. If he makes no resistance, there will be no harm done by your precaution. My motto has been, "It is better to kill two men than to allow one to kill you".

IV. After your prisoner is arrested and disarmed, treat him as a prisoner should be treated - as kindly as his conduct will permit. You will find that if you do not protect your prisoners when they are in your possession, those whom you afterwards attempt to arrest will resist you more fiercely, and will be inclined to sell their lives as dearly as possible.

V. Never trust much to the honor of prisoners. Give them no liberties which might endanger your own safety or afford them an opportunity to escape. Nine out of ten of them have no honor.⁹⁵

* * * *

Part of the significance of the office of the sheriff was derived from the rural conditions of the area. The vastness of the territories required broad jurisdictional enforcement needs. The other significance resulted in the general need for law enforcement in a relatively untamed and lawless condition that was rampant in the West. Because of the lawlessness, a need for powerful and unique personalities to control the crime issues was called for. As a result, colorful and dramatic persons were to hold the office of sheriff in the Wild West. These personalities have provided imagination fuel for our concepts of how the West was won. The next portion of this work will deal with some of the exciting and unusual characters that held the office.

89. *Constitution of Texas (1836), art.4, sec. 12-Ibid., p. 95.*

90. *Ibid., pp. 94-96.*

91. *Prassel, F.R., The Western Peace Officer: A Legacy of Law and Order, (Norman: University of Oklahoma Press, 1972), pp. 95-97.*

92. *Colorado Revised Statutes, 39-2-2 - Ibid., p. 98.*

93. *New Mexico Statutes, 15-40-14 (1868-1869) and General Statutes of the State of Nevada, sec. 5., (1861) - Ibid., pp. 99-100.*

94. *Ibid., p. 101.*

95. *Rosa, J.G., The Gunfighter: Man or Myth?, (Norman and London: University of Oklahoma Press, 1969), pp. 58-59.*

CHAPTER V

FAMOUS SHERIFFS OF THE WILD WEST

Wyatt Berry Stapp Earp

No other lawman of the Old West has inspired more legends than the soft-spoken and nerveless Wyatt Earp. Unlike most of his peers, Earp survived countless gun battles and physical encounters with outlaws because of his extraordinary patience and resolute manner. He was not noted as a quick-draw and while gunslingers quickly drew their weapons against him and fired wildly, Earp would take careful aim as the bullets whizzed by him. His aim was true and his purpose was to out-survive the outlaws. Though he was involved in occasional shoot-outs, he was most noted for hitting violators over the head with his pistol to affect an arrest. Unfortunately, much of the information about Wyatt Earp comes from dozens of movies, television productions, countless books, magazine articles, and re-told stories that had more to do with literary and show business mystique than history.⁹⁶

The Earp family was of Scottish descent and dated back to pre-revolutionary Virginia. Wyatt's parents, Nicholas and Virginia settled in Hartford, Kentucky and they produced seven children. Wyatt was named after his father's commander during the Mexican-American War, Colonel Wyatt Berry Stapp. The Earps moved to Iowa in 1850 and established a large farm. It was here that the Earp boys learned to respect the law. Their father, according to Wyatt's later recollection:

"Had a regard for the law that was equalled by his respect for the law and his detestation for the lawless elements that were so prevalent in the West. I heard him say many times that while the law might not be entirely just, it generally expressed the will of decent folks who were trying to build up the country, and that until someone could offer a better safeguard for a man's right, enforcement of the law was the duty of every man who asked for its protection in any way."⁹⁷

Legend tells us that Wyatt Earp, acting in various peace officer capacities, tamed various jurisdictions in the Wild West before retiring and going East to live out his life with the tenderfoots.

Earp, was accounted with some impressive heroics in Ellsworth, Kansas in August of 1873. It was here that the Wyatt Earp law enforcement legend began. Ellsworth was the railhead where huge herds of cattle, driven from Texas, were shipped East to the slaughter houses of Chicago. The town was wild with drunken cowboys spending their pay, shooting up the town, and creating havoc. Two of these violent cowboys were Billy and Ben Thompson, both lethal gunmen who would rather resort to a shoot-out than be talked out of an argument. On August 15, 1873, both Thompsons were drunk and started several arguments with two gamblers, John Sterling and Jack Morco. The latter was also a local policeman. The Thompsons exchanged shots with Sterling and Morco in one of the local saloons. Billy Thompson, a homicidal maniac and hopeless alcoholic, inexplicably turned his gun on Sheriff Chauncey B. Whitney, a friend of the Thompsons, who had been drinking with them at the saloon. Billy emptied both barrels of a shotgun into Sheriff Whitney, killing him on the spot. Ben Thompson ushered his drunken brother outside, put him on a horse and sent him out of town.⁹⁸

Across the street Wyatt Earp, a civilian, watched the event without interfering. He saw the Mayor enter the saloon and demand that Ben Thompson surrender his guns. Thompson refused and the Mayor went to the town marshal and his deputies for help. The lawmen were frozen in terror and refused to go after Thompson. According to the legend, the Mayor ripped off the badge from the shirt of the marshal and asked the crowd, who had formed, if anyone had the nerve to arrest Thompson. Wyatt Earp stepped forward and strapped on two six-shooters before facing Thompson. After some negotiation, which basically boiled down to Earp calmly saying he would just as soon kill Thompson as arrest him, wound up with Wyatt taking Thompson into custody without further incident. Thompson was fined \$25 for disturbing the peace and released from custody. A warrant for murder was sworn out for his brother Billy. Billy Thompson would later be returned to Ellsworth where he would be acquitted of the homicide. Though Earp would turn down the marshal position, this inaugural call to law and order would stay with him and shape his future.⁹⁹

Wyatt's movements between 1873 and 1874 are difficult to trace but he later turns up in Wichita, Kansas in 1874, affixed with a reputation of fearlessness over the Thompson incident. His exploits earned him a deputy marshal job there where he would face a continuous throng of gunslingers looking to make a name for themselves. Incident after incident occurred in which Wyatt would face-down, out-shoot, or out-punch badmen and drag them off to the local jail. Earp, being a better than average fist-fighter gained a reputation for his ability to out-punch as well as out-shoot desperados. Wyatt's ability with a six-shooter was honed as a lawman in Wichita. On one particular occasion while Wyatt was in foot pursuit of a man wanted for horse thievery, he soon tired of chasing the man. Earp ordered the bandit to halt but he continued running. Wyatt fired a single shot that struck the fleeing horse thief in the buttocks and hurled him into a clothesline. Bringing down women's undergarments which had been drying, Wyatt dragged the outlaw to confinement adorned with ladies unmentionables.¹⁰⁰

Wyatt Earp's exploits in Wichita cannot go without noting his wild side, particularly when it came to supporting his friends. A fellow deputy marshal decided to run for the top marshal position against Wyatt's friend and boss. One night the candidate made some particularly unkind remarks about the incumbent marshal who was favored by Wyatt. Earp ordered the man to keep quiet or to step outside where the issue could be settled fist-to-cuffs style. Foolishly the drunken co-worker of Wyatts went out into the street to decide the argument. After Wyatt beat the man senseless he continued to hit the unconscious man, repeatedly punching his lifeless opponent, to teach him a lesson. A complaint was filed against Earp for his brutish behavior. The town council terminated his employment with the city and fined him \$30 for assault. Wyatt was disgusted at being punished for defending the honor of his superior and left Wichita for Dodge City, the queen of the cowtowns and the wildest, most dangerous town in Kansas. Gamblers, prostitutes, gunmen, and thieves of all stripes gathered in Dodge which was dubbed the "Gomorra of the Plains".¹⁰¹

In order to describe the character of Dodge City, I provide the following selected newspaper account about the city that reflects the tenor of the community. The Dodge City Times, of September 1, 1877, described Dodge City in the following fashion:

"Dodge has many characteristics which prevent it being classed as a town of strictly moral ideals and principles, notwithstanding it is supplied with a church, a courthouse, and a jail. Other institutions counterbalance the good works supposed to emanate from the first mentioned. Like all frontier towns of this modern day, fast men and fast women

are around by the score, seeking whom they may devour, hunting for a soft snap, taking him in for cash and many is the Texan cowboy who can testify as to their ability to follow up successfully the callings they have embraced in the quest for money.

"Gambling ranges from a game of five-cent chuck-a-luck to a thousand dollar pocket pot. Nothing is secret, but with open doors upon the main street the ball rolls on uninterruptedly. More than occasionally some dark-eyed virago or some brazen-faced blond with a modern sun-down, will saunter in among the roughs of the gambling houses and saloons, entering with inexplicable zest into the disgusting sport, breathing the unmoral atmosphere with a gusto which I defy modern writers to explain. Dance houses are ranged along at convenient distances and supplied abundantly with the trappings and paraphernalia which go to complete institutions of that character. Here you see the greatest abandon. Men of every grade assemble to join in the dance. Nice men with white neck-ties, the cattle dealer with his good clothes, the sport with his well-turned fingers, smooth tongue and artistically twisted mustache, and last but not least, the cowboy, booted and spurred as he comes in from the trail, his hard earnings in his pocket, all join in the wild revel; and yet with all this mixture of strange human nature a remarkable degree of order is preserved. Arms are not allowed to be worn, and any noisy whisky demonstrations are promptly checked by incarceration in the lock-up. Even the striations are promptly checked by incarceration in the lock-up. Even the Mayor of the city indulges in the giddy dance with the girls and with his cigar in one corner of his mouth and his hat tilted to one side, he makes a charming looking officer.

"Some things occur in Dodge that the world never knows of. Probably it is best so. Other things occur which leak out by degrees notwithstanding the use of hush-money. That too perhaps is the best. Men learn by such means.

"Most places are satisfied with one abode for the dead. In the grave there is no distinction. The rich are known from the poor only by their tombstones, so the sods upon the grave fail to reflect the characters buried beneath them; and yet Dodge boasts two burying spots, one for the tainted, whose souls were steeped by immorality, and who have generally died with their boots on. 'Boot Hill' is the somewhat singular title applied to the burial place of the class just mentioned. The other is not designated by any particular title, but is suppose to contain the bodies of those who died with a clean sheet on their bed - - the soul in this case is a secondary consideration"¹⁰²

This description of Dodge City described the type of community that attracted Wyatt Earp as a law enforcer. Or perhaps more aptly phrased, this type of community needed Wyatt Earp as a law enforcer. In this type of community, with these types of crime issues, law enforcement legends could be made.

Quickly recruited to the marshal force of Dodge City because of his prior heroics, Wyatt soon had full authority to hire all the deputies. Wyatt chose his brothers Morgan and Virgil Earp, Bat and Jim Masterson, Joe Mason, and Neal Brown as the assistants to try and tame the wild town. To encourage enforcement, the city added a \$2.50 bonus for each arrest to the arresting officer's salary, thereby, making law enforcement in Dodge a lucrative occupation. Sometime during the height of the cattle season a writer named Ned Buntline visited the marshal's office in search of material for his dime novels. He was so impressed with the lawmen of Dodge that he presented Wyatt and two of his deputies with custom-made Colt Specials. Ned gave similar guns to members of the Ford County sheriff's office that was headquartered in Dodge.¹⁰³

Buntline had the name "Ned" carved into the walnut butt plates of the weapons. Originally the weapons had sixteen inch barrels and came complete with detachable shoulder stocks and hand tooled scabbards. Wyatt Earp and Bat Masterson cut down the barrels of the pistols to meet their personal specifications for drawing capability, but not too short to subtract from the weapon's impact potential to smash down upon the head of unruly offenders. Wyatt kept his buntline at twelve inches and kept it strapped down to his right thigh in a display of awesome potential. Combined with his fearless reputation, the mere sight of the ominous hand gun was a deterrent in many bad situations.¹⁰⁴

Earp's prowess with the gun prompted the Dodge City Times to warn gunslingers not to draw their weapons on him unless they meant to make permanent residence in Dodge on Boot Hill. But by the fall of 1876, Wyatt Earp had become weary of his deputy marshal job in Dodge and sought other ventures. He mined for gold, he gambled heavily, and he continuously sought undertakings in saloons. Occasionally he worked as an armed guard for various Western expresses and railroads. His reputation as a community policeman in Kansas made him the sensible choice as a deputy federal marshal in Tombstone, Arizona where he was working as a deputy sheriff in Pima County.¹⁰⁵

By 1880, Tombstone, Arizona had become a thriving mining town of two thousand located in Pima County. Within three years the population jumped to five thousand and the saloons were open twenty-four hours a day. Instead of drunken cowboys, the town toughs were made up of miners, with pokes filled with silver, looking for a good time. Few days passed without a shooting or a killing, and Deputy Sheriff Earp spent much of his time policing this single community within his county jurisdiction. In many ways the violent nature of the town was like Dodge City. Located within the county was a band of rustlers, horse thieves, and desperados loosely classified as "the cowboy element". It was inevitable that when the cowboys came to Tombstone, gunfire and violence would not be far behind.¹⁰⁶

The best known of the cowboy element was the Clanton clan. They were a large ranching family of outlaws, led by N.C. "Old Man" Clanton and his sons Peter, Joseph Isaac or "Ike", Phinias or "Phin", and Billy. Associated with the Clantons were the McLaurys

(or McClowery) brothers, Frank and Tom. The Clantons and the McLaurys were friendly with a William Graham and Johnny Ringgold or Johnny Ringo, as his legend came to be known. Hollywood sagas identify Johnny Ringo as an educated cowboy, who was as proficient in citing the classics as he was with a gun. In reality, Johnny Ringo was an alcoholic with severe homicidal tendencies who drifted from town to town as a hired gunslinger. Cochise County Sheriff John H. Behan took up with the local gang and was reportedly on their payroll to overlook illegal activities. Behan, along with his crooked deputies, looked the other way while the Clanton-McLaury gang rustled cattle, held-up stagecoaches, and parcelled out spoils to the corrupt sheriff.¹⁰⁷

Sheriff Behan of Cochise County was a political rival of Sheriff Charles Shibell of Pima County. This rivalry included Wyatt who was in the employ of Shibell as a deputy sheriff. Added to this was a constant rift between the Clanton-McLaury gang and the Earp element. Also in Tombstone at this time were Wyatt's brothers and close friends: William Barclay "Bat" Masterson, John Henry, and John H. "Doc" Holliday; a consumptive dentist turned gambler and gunslinger. The town was not big enough for the Earp faction and the cowboy element, and constant friction between the two groups existed. Doc Holliday openly showed his contempt for Sheriff Behan and one day in the Oriental Saloon he accused Behan of cheating in a faro game. Holliday taunted the

corrupt sheriff in front of a jeering crowd. From that day on, Behan vowed revenge against not only Holliday, but Holliday's closest ally, Wyatt Earp.¹⁰⁸

In March of 1881, the Kinnear & Company stagecoach leaving Tombstone was robbed and the driver and one passenger were killed. Wyatt Earp put together a posse made up of his brothers Morgan and Virgil, "Buckskin Frank" Leslie, Bat Masterson, and others. They managed to track down a small-time thief named Luther King, who confessed to a minor complicity in the crime but named associates of the Clanton-McLaury gang as the perpetrators. Earp turned King over to Sheriff Behan for holding while he and the posse continued to track the outlaws. Failing to trace the killers, Earp and the posse returned to Tombstone only to discover that the prisoner King had escaped from Behan's jail. Most reports of the incident indicated that King merely walked out of an unlocked door while Behan looked the other way. When Wyatt Earp accused Behan of allowing the prisoner to escape, the sheriff then claimed that Doc Holliday, Wyatt's good friend, was the one responsible for robbing the stage.¹⁰⁹

It is important here to say a few words about Doc Holliday. Holliday was from every account except Wyatt's, a mean and savage man. Many have described him as the coldest-blooded killer of the Wild West era. He was born in Georgia and was tubercular at birth. After he killed two black men in Georgia he fled to Texas. He killed another man in Dallas, which required him again to flee to Fort Richardson. There he killed a soldier and again went on the run. In Denver he shot another man, and sometime after skipping town from that shooting he met Wyatt Earp. The two were to form a friendship and bond of loyalty that would endure through their lifetimes. Wyatt later told his biographer that Doc's violent side was merely an expression of his personality, and that:

"With all his shortcomings and his undeniably poor disposition, I found him a loyal friend and good company"¹¹⁰

The events that occurred between the Earp faction and the Clanton-McLaury faction would eventually result in the most enduring legend about Wyatt Earp. The gunfight at the O.K. Corral has become an icon of the Wild West. On October 26, 1881, the Clanton brothers and the McLaury brothers went to the O.K. Corral to pick up their horses and ride out of town. Wyatt, Virgil, and Morgan Earp, along with Doc Holliday went to the corral to confront the gang. Sheriff Behan tried to interfere but was brushed aside. While the gang was in the corral, shooting started. In the end Billy Clanton was dead as was Frank and Tom McLaury. Ike Clanton and Billy Clairborne ran for their lives. Morgan Earp was struck by a bullet in the left shoulder and Virgil took a round to the leg. Doc Holliday was creased by a bullet across his back. As the smoke from the guns settled only Wyatt remained standing in the corral, unharmed by the gun battle. The fight lasted only a few minutes, yet some thirty to fifty shots were fired by both sides. Stories and whole books would be written about this most famous of all Wild West gunfights. Because of this high noon gun brawl, the memory of Wyatt Earp would be forever linked to the image of courage and dedication to law enforcement.¹¹¹

The Earp worshippers have described the slayings as a triumph of law and order against the evil of outlaws. As a result, Virgil Earp was discharged from his position as city marshal. Wyatt and Doc were charged with murder, but would eventually be cleared. Doc Holliday, Wyatt's loyal friend lived only a few more years after the renowned O.K. Corral gunfight. Racked with consumption he was taken to a sanatorium by Wyatt where the deadly dentist died in bed. On his side were his six-guns and his shotgun laid on the

bed with him. Wyatt travelled around nomadically after the gunfight and lived to the age of eighty. His last words to his biographer were:

"The greatest consolation I have in growing old is the hope that after I'm gone they'll grant me the peaceful obscurity I haven't been able to get in life".¹¹²

Many have claimed the events surrounding Wyatt Earp are enhanced or embellished. In fact or in fiction, he was the greatest lawman in the history of the Wild West and revisionist historians have failed to change this image.

96. Chaput, D., *The Earp Papers: In a Brother's Image*, (*Encampment: Affiliated Writers of America, Inc.*, 1994), pp. forward XII - XIV.

97. Lake, S.N., *Wyatt Earp Frontier Marshal*, (New York: Simon & Shuster, Inc., 1931), pp. 5-6.

98. Lyon, P., *The Wild Wild West*, (New York: Funk and Wagnalls, 1969), p. 98.

99. Richard, E.E., *The Truth about Wyatt Earp*, (*Carpinteria: The O.K. Press*, 1992), pp. 37-38.

100. Crime Data Research News Service Inc., 1994 and 1995, *Encyclopedia of Western Lawmen and Outlaws*, (Zane Publishing Inc., 1995), Text 7, p. 4.

101. *Ibid.*, Text 7, p. 5.

102. Richard, E.E., *The Truth about Wyatt Earp*, (*Carpinteria: The O.K. Press*, 1992), pp. 68-70.

103. Mcloughlin, D., *Wild and Woolly: An Encyclopedia of the Old West*, (New York: Barnes and Noble Books, 1996), pp. 150-151.

104. *Ibid.*, p. 69.

105. Prassel, F.R., *The Western Peace Officer: A Legacy of Law and Order*, (Norman: University of Oklahoma Press, 1972), p. 228.

106. Horan, J.D., *The Authentic Wild West: The Lawmen*, (New York: Gramercy Books, 1996), pp. 200-202.

107. *Ibid.* pp. 203-204.

108. Crime Data Research News Service Inc., 1994 and 1995, *Encyclopedia of Western Lawmen and Outlaws*, (Zane Publishing Inc., 1995), Text 7, pp. 8-9.

109. Richard, E.E., *The Truth about Wyatt Earp*, (*Carpinteria: The O.K. Press*, 1992), pp. 237-240.

110. Lake, S.N., *Wyatt Earp Frontier Marshal*, (New York: Simon & Shuster Inc., 1931), p. 197.

111. Gintzler, A.S., *Rough and Ready: Outlaws & Lawmen*, (Santa Fe: John Muir Publications, 1996), pp. 41-42.

112. Lake, S.N., *Wyatt Earp frontier Marshal*, (New York: Simon & Shuster, 1931), p. 379.

WILD BILL HICKOK

On August 2, 1876, the blast of a Colt Peacemaker rang out above the sounds of the saloon patrons in Deadwood, South Dakota's Number Ten Saloon. The bullet drove through the skull of the seated cardplayer and came to rest in the arm of the man he was opposing. As the man slumped to his death he was still holding his cards. He had three aces and two eights, which would have been the winning hand. This variation of cards would from that time on be known as the "deadman's hand". The dead man was none other than the notorious Wild Bill Hickok, who would breathe his last breath at age thirty-nine. It ended the spectacular career of a gunman and a lawman. He was credited with killing some thirty to eighty-five men, depending on who was doing the counting. More by his own account, but on this day, Jack McCall fired the fatal shot into Wild Bill's head that would forever stop the count.¹¹³

Born James Butler Hickok in 1837, he would hold many positions in his short life. At eighteen he got his first taste of violence when he was working as a muleskinner in the building of the Illinois and Michigan Canal. Another worker was tormenting him and when Hickok had enough he tossed the co-worker into the canal. When he did not see the man surface, he assumed he had killed him and fled to Missouri. Though the man was not dead, Hickok did not know it and his life's adventure would begin on that violent note. Fixed with a penchant for adventure, he worked as a bodyguard for a prominent abolitionist and a stage driver along the Santa Fe Trail. Somewhere along the Trail folks, dropped the name Jim and began calling him Bill. Perhaps because he had a huge nose and protruding upturned top lip, it was a variation or abbreviation of "Duckbill".¹¹⁴

The "Wild" addition to the name was surely deserved. One such incident that chronicles this was an incident while he was driving wagon through New Mexico's Raton Pass. Confronted with an angry grisly bear, Wild Bill fought the bear with only a knife. Though he killed the bear, it was not without severe physical consequences to himself. While convalescing in Nebraska, he shot a man to death over an argument that hardly concerned him. This wild streak proved to be an advantage during the Civil War, when he was a scout and spy for the Northern cause. After several documented and notorious killings he was appointed a deputy U.S. marshal. In 1869, Wild Bill was appointed sheriff of Ellis County, Kansas to fill a temporary vacancy. As well as being sheriff, he held a concurrent job as town marshal of Hays City, Kansas. Though law enforcement, particularly its violent aspects, appealed to Wild Bill, politics were not his specialty. He lost the position of sheriff at the polls the first and last time he ran for office.¹¹⁵

While in law enforcement Bill kept the local undertaker busy. On October 9, 1869, a notable outlaw and gunslinger named John Strawan braced Bill and the move proved fatal. It would be Strawan's last gunfight. Two months later another man put a gun to Hickok's head and went into a rather lengthy dissertation of how he was going to kill him. Bill managed to distract him for a few seconds and shot him dead on the spot. Another law enforcement encounter was as a result of Custer's 7th Cavalry being stationed at Fort Hays. General George Armstrong Custer's brother, Captain Tom Custer, was arrested by Bill for disturbing the peace. Seeking revenge on Hickok, Tom Custer gathered a few of his troops and beat Bill severely. During the melee Wild Bill wound up killing one soldier and severely wounding two more; but Custer escaped. Deciding that discretion called for him to leave law enforcement behind in Hays, Hickok pursued a career with Buffalo Bill Cody on his Wild West Show.¹¹⁶

Wild Bill's most critical biographer, William E. Connelley, has said that fear "was simply a quality he lacked".¹¹⁷ Bravery was certainly his most admirable quality but it was killing for which he would be most noted. A 1867 published report of a Hickok conversation reflects this:

"I say, Bill, or Mr. Hickok, how many white men have you killed to your certain knowledge"? After some thought, Hickok replied, "I would be willing to take my oath on a Bible tomorrow that I have killed a hundred".

"What made you kill all those men; did you kill them without cause or provocation"?

"No, by Heaven! I never killed one man without good cause"¹¹⁸

Sometime later Hickok was again quoted regarding his killer reputation:

"I suppose I am called a red-handed murderer, which I deny. That I have killed men I admit, but never unless in absolute self-defense, or in performance of an official duty. I never, in all my life took any mean advantage of an enemy. Yet understand, I never allowed a man to get a drop on me. But perhaps I may yet die with my boots on".¹¹⁹

This last sentence was indeed prophetic.

Due to the speculation, exaggeration, and lack of complete documentation it is completely impossible to finally determine how many men Wild Bill Hickok may have killed. Certainly at least thirty and as many as eighty-five, by various written documents and accounts. Possibly more than one hundred if you are not subject to believe he exaggerated his own numbers. In any event, he killed more than any other person to hold the office of sheriff in the Wild West. Wild Bill Hickok might be described as a homicidal maniac or dauntless defender of justice depending on the point of view you wish to adopt.¹²⁰

113. Mcloughlin, D., *Wild and Woolly: An Encyclopedia of the Old West*, (New York: Barnes and Noble Books, 1996), p. 221.

114. *Ibid.* p. 222.

115. Rosa, J.G., *Wild Bill Hickok: The Man and his Myth*, (Lawrence: University of Kansas Press, 1996), p. 124.

116. Mcloughlin, D., *Wild and Woolly: An Encyclopedia of the Old West*, (New York: Barnes and Noble Books, 1996), pp. 223-224.

117. Lyon, P., *The Wild Wild West*, (New York: Funk and Wagnalls, 1969), p. 46.

118. *St. Louis Weekly Democrat*, April 16, 1867 - Rosa, J.G., *The Gunfighter: Man or Myth?*, (Norman and London: University of Oklahoma Press, 1969), p. 119.

119. Tallent, A.D., *The Black Hills or Last Hunting Grounds of the Dakotas*, p. 100. - *Ibid.*, p. 120.

120. Hansen, G.W., "The True Story of Wild Bill - McAnles Affray in Jefferson County Nebraska", *Nebraska History Magazine*, Vol X, No. 2, (April - June 1927) - Prassel, F.R., *The Western Peace Officer: A Legacy of Law and Order*, (Norman: University of Oklahoma Press, 1972), p. 249.

BAT MASTERSON

William Barclay "Bat" Masterson was born in Illinois in 1855. His family worked as farmers in Missouri and Kansas. In 1872, Bat and his older brother Ed left home and moved to Dodge City. They took up the buffalo hunting trade and lived the wild life, cashing in their pay for town sprees filled with women, whiskey, and gambling. In 1875, during one of these indulgences, Bat received a pelvic wound in a gunfight. In 1876, while walking around Dodge, with the aid of a cane (or bat), he ran into an old buffalo hunting acquaintance named Wyatt Earp. Earp was the assistant city marshal and hired on Bat as a deputy, which began his law enforcement career.¹²¹

The nickname Bat is reputed to have originated from two separate and distinct sources. One legend tells us that because he walked with the aid of a cane, this stick (bat) was used as a baton or impact weapon in his law enforcement capacity. It is universally understood that Masterson used this weapon with frequency and preferred the weapon to a pistol, in most situations, to convince resisting offenders that jail was their next destination. The other source of the nickname legend is that many of his friends, including Theodore Roosevelt, called him "Bart", which was short for Bartholomew, a variation of his middle name Barclay. Each legend has merit and perhaps there is some truth to both. By any account, he was known as Bat to all that knew him or knew of him.¹²²

Wyatt Earp convinced Bat Masterson to run for sheriff of Ford County in 1877. After he was elected to the post he was anchored in Dodge City, where the county seat was located. One evening in 1878, he was summoned from his office by news that his brother, Ed Masterson the city marshal, needed assistance with a riotous pack of cowboys outside of the Lady Gay Dance Hall and Saloon. As Bat walked up to the scene of the disturbance he witnessed Jack Wagner and Alf Walker gun down his brother. Without hesitation Bat responded in kind and shot the duo on the spot, killing them both. Though Bat survived the battle without physical harm, this event would remain etched in his psyche for the rest of his enforcement career.¹²³

Bat often caroused in Dodge City with Wyatt Earp and Doc Holliday. Gambling was an important part of their lives, and for Bat and Wyatt their tin stars helped out with their gambling passion. Because of their status, they were exempt from the citywide ban on weapons. By being armed while at the tables, they had a dominant edge. Though Masterson had won the office of sheriff, he had done so by a slim three vote margin, and his sporting antics did not enhance his stature within the community. Bat and Wyatt spent so much time in Dodge City brothels seeking courtesy discounts, the two were known as the "fighting pimps". In 1879, the voters of Ford County overwhelmingly voted out Bat Masterson from his office, electing a bartender named George Hinkle to the post. Though Hinkle did not have any police experience, he had a better image than Masterson.¹²⁴

For the next few years, Bat moved from town to town in the West and was heavily engaged in sporting activities. By 1885, Masterson, who was getting restless and edgy, returned to Dodge City to work the faro tables at the Long Branch Saloon. He served briefly as a deputy sheriff and helped quell a mob that was out to tar and feather a prohibitionist who was determined to shut down Dodge's saloons. After about a year, Bat moved on and began promoting prize fights. He also wrote about the fight game and published several stories about prize fighting in various Western newspapers. Theodore Roosevelt spent considerable time in the West and valued friendships with cowboys, hunters, painters, and writers of the Old West. Remarkably, the favorite figure of the

twenty-sixth president of the United States was the gunfighter, killer, gambler, saloon owner, and former sheriff - Bat Masterson. Their friendship lasted for many years and Bat was a frequent and welcome guest at the White House. As president, Roosevelt appointed Bat, the former fighting pimp, U.S. deputy marshal of New York. A year later, Roosevelt offered Bat the post of U.S. marshal of Oklahoma. Though Roosevelt knew about some of Bat's rather seedy background, he thought it would be fitting to place him back in the West. Bat contemplated the very real possibility that this position might put him in jeopardy, as his fame as a former gunfighter might inspire some "wannabe" gunslinger to try and to make a reputation by gunning him down. Based on this, Bat declined the position and lived out the rest of his life in midtown Manhattan as a daily sports columnist, and never lost contact with Roosevelt.¹²⁵

121. Mcloughlin, D., *Wild and Woolly: An Encyclopedia of the Old West*, (New York: Barnes and Noble Books, 1996), pp. 326-328.

122. Horan, J.D., *The Authentic Wild West: The Lawmen*, (New York: Gramercy Books, 1996), pp. 36-37.

123. Mcloughlin, D., *Wild and Woolly: An Encyclopedia of the Old West*, (New York: Barnes and Noble Books, 1996), pp. 328-329.

124. Lyon, P., *The Wild Wild West*, (New York: Funk and Wagnalls, 1969), p. 107.

125. Horan, J.D., *The Authentic Wild West: The Lawmen*, (New York: Gramercy Books, 1996), pp. 75-76.

PATRICK FLOYD GARRETT

Pat Garrett was born in Alabama on June 5, 1850. Shortly after the death of his parents in 1869, he went west to seek his future. He was a cowhand in Lancaster, Texas for several years before he became a buffalo hunter on the Southern Plains. He was remarkably adept at slaying buffalo and was able to slaughter between sixty and one hundred per day. He was so capable that the hide skinners could hardly keep up with his killing totals. One day in 1876, Pat found that he also possessed the ability to kill a person. Joe Briscoe, a co-worker in the hide trade, exchanged verbal barbs with Garrett. When Pat resorted to using ethnic slurs, Briscoe grabbed an axe and attempted to kill Garrett with it. Pat ran around a wagon trying to elude Briscoe who was relentless in his pursuit. Finally, Garrett tired of the chase and pointed a "big fifty" buffalo rifle at his attacker and demanded he stop. Briscoe doubted Garrett's resolve and continued at him with the axe. One round from the gun ended the dispute forever.¹²⁶

Though Pat was never charged with the killing it did mark the end of his buffalo hunting days. He moved to Fort Sumner, New Mexico and became a gambler. It was here that he would meet a young man who would help shape the legend of his life. His acquaintance, Henry McCarty (a.k.a. William Bonney), who would later be known in infamy as "Billy The Kid", was at this stage of his career known as "Little Casino" because of his slight stature. His associate, Pat Garret, was known as "Big Casino" because of his 6'4" frame. Many have speculated that during the Fort Sumner days Billy and Pat were the best of friends. This has never been fully substantiated, however, they were well acquainted and the nickname association between the two suggests it was more than a passing relationship.¹²⁷

After failing in several restaurant and saloon ventures, Pat decided to become a lawman. In 1880, he pinned on a star for the first time as a deputy sheriff of Lincoln County, New Mexico. Soon after this he ran for the top slot of sheriff. He was an affable and pleasant man and politics suited him well. He easily won the election. His first and greatest assignment was to stop the now prolific killer and outlaw, Billy The Kid, who was without question the most notorious desperado and killer in the Wild West. Billy had been on a killing binge for about half of his twenty-one years. Garrett and his posse first caught up with the Kid near Stinking Springs, New Mexico and returned him for trial. He was found guilty, and while awaiting his hanging, Billy managed to get hold of a pistol and killed both of his jailers during his escape from the County lock-up.¹²⁸

Garrett tracked the Kid back to Fort Sumner and located the hotel where he was staying. While The Kid was out celebrating with some senioritas, Garrett secreted himself in Billy's hotel room. Hidden in the shadows of the room Garrett awaited the outlaw's return. Garrett describes the scene:

"The Kid must have seen or felt the presence of a person at the head of the bed. He raised quickly his pistol, a self-cocker, within a foot of my breast. Repeating rapidly across the room he cried: Quien es? Quien es? (Who's that? Who's that?) All this occurred in a moment. Quickly as possible I drew my revolver and fired, threw my body aside and fired again. The second shot was useless; The Kid fell dead. He never spoke. A struggle or two, a little strangling sound as he gasped for breath, and The Kid was with his many victims".¹²⁹

The killing of the most noted desperado of the Wild West brought Garrett instant fame and notoriety. His book, The Authentic Life of Billy The Kid, which was really written

by an itinerant newspaperman named Ash Upson, hit the market within fifteen months after Garrett had killed Billy The Kid. Though the story line was exciting, and certainly newsworthy, Garret's life would be a less fortunate series of anticlimaxes. At the end of his term of office in 1882, Pat moved South and began another series of failed business ventures. He took on a short stint as a Texas Ranger that also failed and he resigned after only six months. In 1889, he was defeated in a contest for sheriff of Chavey County, despite all of his fame and prior reputation. In 1897, he accepted an appointment as the sheriff of Dona Ana County, New Mexico and he managed to get re-elected on two consecutive occasions. However, he surrendered his badge in 1900 after a series of political disputes.¹³⁰

A few months later Pat was appointed collector of customs in El Paso, Texas. President Theodore Roosevelt, who had read Garret's, or supposedly Garrett's book, was anxious to employ the man who shot the world's most notorious outlaw. Soon after considering Pat, Roosevelt began to receive a series of letters and telegrams questioning Garrett's ethics. Roosevelt began to have second thoughts about the decision, not only based upon Garrett's abilities and liabilities, but the issue over the actual authorship about the book was lingering. Garrett went to Washington D.C. to plead his case personally. Roosevelt handed Pat a printed note and asked him to read it aloud and sign it. The note stated:

"I, the undersigned Patrick F. Garrett hereby give my word of honor, that if I am appointed Collector of Customs at El Paso, Texas, I will totally abstain from the use of intoxicating liquors during my term of office".¹³¹

The purpose of the note was not to obtain an oath from Garrett but to abolish lingering doubts that Roosevelt had over Pat's literacy. This would clear rumors that Garrett could not have written his own book because he could not read or write.

Within five years of his appointment, Garrett fell from presidential grace and finally resigned his position. Again, Garrett failed at business, this time ranching. On February 29, 1908, Garrett was thirty-five hundred dollars in debt and forced to sell his ranch. A tenant farmer on his ranch named Wayne Brazel argued with Garrett over the ranch sale. When Garrett reached for a shotgun, Brazel killed him with a six-shooter. Incredibly, Brazel was acquitted using a self defense excuse. It was a remarkable verdict considering that Pat had been shot in the chest and through the back of the head. Footprints at the crime scene suggested the presence of multiple persons at the time of his death.¹³²

126. Metz, L.C., *Pat Garrett: The Story of a Western Lawman*, (Norman: University of Oklahoma Press, 1974), pp. 14-17.

127. Mcloughlin, D., *Wild and Woolly: An Encyclopedia of the Old West*, (New York: Barnes and Noble Books, 1996), pp. 191-192.

128. Lyon, P. *The Wild Wild West*, (New York: Funk and Wagnalls, 1969), p. 119.

129. Garrett, P.F., *The Authentic Life of Billy The Kid*, (Santa Fe: New Mexico Printing and Publishing, Co., 1882), pp. 128-129.

130. Mcloughlin, D., *Wild and Woolly: An Encyclopedia of the Old West*, (New York: Barnes and Noble Books, 1996), pp. 191-192

131. Metz, L.C., *Pat Garrett: The Story of a Western Lawman*, (Norman: University of Oklahoma Press, 1974), pp. 243-244.

132. Mcloughlin, D., *Wild and Woolly: An Encyclopedia of the Old West*, (New York: Barnes and Noble Books, 1996), p. 193.

THEODORE ROOSEVELT, DEPUTY SHERIFF

Theodore Roosevelt went to the Dakota Territory in 1883 to spend a vacation shooting buffalo. While in the Badlands, he fell in love with the beautiful yet savage country. Roosevelt lost himself in the charisma of what he called "the never ending plains". While in the West, he decided to build a log ranch house as a getaway retreat from his native New York and the political toils of his life. During a stay in the West, Teddy had a famous encounter with a frontier bully in Mingasville, West of Medora. One evening he entered Nolan's Hotel and Saloon just as two shots were fired by a drunken cowboy. The gunslinger then pointed his weapon at Roosevelt, who he referred to as "four eyes", and demanded that he buy a drink for the entire house. Teddy laughed, which distracted the outlaw just long enough, before he struck the desperado twice square on the jaw with left and right punches. As the man was going down, he convulsively squeezed off another shot, which missed Roosevelt. The corner of the bar met with the falling man's head and placed him into unconsciousness. The unconscious man was locked in a shed overnight until he was jailed the next day.¹³³

Theodore Roosevelt was travelling West from New York after attending to his politics when another adventure occurred. In 1886, three "hard characters" made off with his boat. He was enraged with the theft but could not pursue the thieves down river due to severe weather. The loss of the small boat was not the primary reason for his anger. He knew that if the band of thieves was successful, it would signal others to plunder his ranch during frequent vacancies. On the frontier, where justice was a six-shooter on a man's hip, Roosevelt knew he had to pursue the trio, capture them, and turn them over to the law for punishment. Roosevelt wrote to his friend, Henry Cabot Lodge, and described the incident:

"...as soon as it lightens up I shall start downriver with two of my men in a boat we have built indoors, after some horse thieves who took our boat the other night to get out of the country with it".¹³⁴

As soon as the storm subsided, the posse made provisions for a three week trek to hunt the thieves. They packed supplies of bacon, flour, and coffee. Roosevelt brought his camera and a copy of Tolstoy's Anna Karenina to occupy his time. Roosevelt cites the event in his 1897 book Ranch Life and the Hunting Trail:

"The next eight days were as irksome and monotonous as ever I have spent: there is very little amusement in combining the functions of a sheriff with those of an arctic explorer".¹³⁵

The posse located and arrested the violators and returned them to the authorities. While on the trip back Roosevelt relates:

...all the time, of course, we had to keep guard over the captives, who had caused so much trouble that we were bound to bring them in, no matter what we lost".

Bring them in he did and as a result, he served the function of a Billings County deputy sheriff and received a fee of \$50 for making the arrests.¹³⁷ After this he would go on as a politician, leader of his party, New York City Police Commissioner, New York State Governor, Vice President, and President of the United States.

133. Horan, J.D., *The Authentic Wild West: The Lawmen*, (New York: Gramercy Books, 1996), pp. 132-134.

134. *Ibid.*, pp. 135-136.

135. *Ibid.*, p. 140.

136. *Ibid.*, p. 141. from Roosevelt, T., *Ranch Life and the Hunting Trail*, 1897.

WILLIAM "BILL" TILGHMAN

The career of Bill Tilghman spans the Wild West era, but also goes well into the twentieth century. He spent a total of fifty-one years in law enforcement and he was the last of the old time sheriffs. Like many law enforcement officers of the era, Bill was a noted buffalo hunter before becoming a deputy sheriff in Ford County in 1877. The following year, Bat Masterson was elected sheriff of Ford County and often related that Tilghman was a superb officer. Bill was not a flamboyant man and was not noted for his fast draw or marksmanship. However, he was celebrated for his unwavering courage.¹³⁸

The most recognized event in Bill Tilghman's career was the capture of William Doolin. Doolin was a notorious gang leader, robber and killer. He was a close associate of the famed Dalton gang, and because of the seriousness of his offenses there was a five thousand dollar price on his head. In 1894, Tilghman tracked Doolin to a bathhouse in Eureka Springs, Arkansas. He took Doolin alive and transported him to the Guthrie, Oklahoma jail without the aid of handcuffs or restraints. When Doolin was arrested, Bill noticed a small silver mug. Doolin stated the mug was a present for his infant son. Tilghman, a man of kindness, saw to it that Doolin's son got the mug. Doolin was less kind; he escaped from the Guthrie County jail and went on the run again. He was later shot to death by a deputy U.S. marshal.¹³⁹

In 1900, Tilghman was elected sheriff of Lincoln County, Oklahoma and served several years there. It was here that Tilghman mastered another important factor of being a sheriff. He learned the art of politicking. The twentieth century marked a change in the prior style of getting votes. A modern politician of the day had to rely on more efficient and sophisticated ways of getting the vote out to a growing population. Views had to be transmitted through the expanding print media to reach the electorate. A letter to the editor in a 1907 Lincoln Broadside newspaper identifies Tilghman's impressive record and publicizes his campaign:

"I desire to call to the attention of the voters to the good work done by Wm. Tilghman during his tenure in office as Lincoln County Sheriff. During the first thirty days of Mr Tilghman's administration he received warrants for nine persons charged with horse stealing. He caught eight of the thieves, recovered the horse in the ninth case and afterwards caught the thief and sent him to the penitentiary, a record for thirty days never made by any sheriff before or since that time. During the ten years prior to his election there have been convicted and sentenced to the penitentiary thirty-nine persons charged with various crimes. During his term of office eighty-four persons were convicted and sentenced to the penitentiary, being more than has ever been sent to the penitentiary before or since his terms as sheriff. A large portion of these were the hardest criminals Lincoln County ever had to contend with, a good many of them being horse thieves, bank robbers, and murderers.

This record was accomplished by hard work. No sheriff in Lincoln County ever worked harder or more faithful than Wm. Tilghman did. When a crime was committed the night was never too strong or too dark for him to go after criminals. He went and kept going until he captured them and landed them in jail and kept them until they were indicted and convicted. He then transported them to the penitentiary and delivered them to the warden of the institution.

Mr. Tilghman inaugurated a system of collecting personal taxes that saved the farmers of Lincoln County hundreds of dollars. Lincoln County never elected an officer that worked harder or more faithful than Bill Tilghman during his terms in office. Do you want Lincoln County over-run with horse thieves? Do you want to guard your pastures to protect your stock at night? Do you want Lincoln County to continue to be a banner county in Oklahoma for bank robbers? Do you want Lincoln County murders to escape and go unpunished? Do you want your homes burglarized? If not vote for Wm. Tilghman on June 8th".

Yours Very Truly

R.P. Martin

It has been expressed by many historians that Tilghman was the greatest sheriff of the Wild West period. It has also been said that he arrested more dangerous men, shattered more outlaw gangs, and jailed more criminals than any other peace officer of the era. Yet another arguable statistic is the claim that he had been shot at more than one-hundred times in the performance of his duties. His last day of duty came in 1924, when the seventy-two year old Tilghman was shot and killed by a drunken, off-duty federal Prohibition Agent named Wiley Lynn. Tilghman arrested Lynn for a disturbance and disarmed him of his service revolver. Unbeknownst to Bill, the agent had another pistol secreted on his person and used that weapon to kill Tilghman. Ironically, Tilghman's killer was found not guilty because the jury felt his extreme drunkenness exonerated him from the crime. After his acquittal, the agent returned to duty as a federal law enforcement agent.¹⁴⁰

* * * *

The tenor of law enforcement in the twentieth century would directly change. Trains made inroads throughout the West displacing cattle drives, which in turn displaced cattle towns. Boom towns no longer boomed after the ores dried up in mining communities. Eventually towns became communities, and family oriented concern became important community issues. Matters of families superseded vices and locales took on a more peaceful demeanor. Churches and schools became meaningful institutions and the former "shoot em up" sheriffs transformed into a different type community servant.

138. *Ibid.*, p.151.

139. *Ibid.*, pp. 161-162.

140. Mcloughlin, D., *Wild and Woolly: An Encyclopedia of the Old West*, (New York: Barnes and Noble Books, 1996), p. 515.

CHAPTER VI

THE TWENTIETH CENTURY SHERIFF

POLITICS

With the coming of the twentieth century, politics and the office of sheriff became universally intertwined. Grover Cleveland was an elected sheriff in Erie County, New York prior his being a district attorney, New York State Governor, and eventually president of the United States. Accounts of his term of office as sheriff identify him as a competent administrator, and the success he had in office enabled him to use it as a stepping stone to greater political heights. Al Smith, another former governor of New York State, and presidential candidate, was elected sheriff of New York City. It was under Smith's term as sheriff that the office in that jurisdiction changed drastically. In 1936, New York City Mayor LaGuardia began an intensive investigation into the elected position of sheriff in New York City. He further identified the office as a stronghold for political patronage and opportunistic abilities for "pocket lining". It was reported that Al Smith netted over \$50,000 annually in salaries and fees, which was an incredibly exorbitant amount for the 1930's and early 1940's.¹⁴¹

The post enabled the sheriff to make political appointments to enhance his own political stature. Seventy-five percent of the sheriff's 360 appointments went to party committeemen. The remaining twenty-five percent had to convince party leaders of future loyalty before they were recommended for placement. The office of New York City Sheriff allowed the dominant political party to reward allegiant members with employment at taxpayer expense. Al Smith would later testify before the LaGuardia Commission that the job of sheriff was not only financially lucrative but required very little effort. According to Smith:

"I was sheriff myself and I was busy looking for something to do and, if it had not been for the impending war and the time I put into selling liberty bonds and war saving stamps and seeing the boys off, I would have nothing to do".¹⁴²

This abuse of the office prompted numerous civic groups to take action. The "League of Women Voters", accumulated 90,000 legitimate signatures which forced an amendment to the city charter to establish a single sheriff for the five counties within the greater New York City area. Further, the amendment would require that the sheriff be selected from a civil service list. In 1941, the amendment passed and 355 potential candidates took the examination. On January 1, 1942, John L. McCloskey, a lawyer serving as deputy commissioner of the city department of investigation, was appointed to the position as the first civil service sheriff of New York City. The office was re-staffed with employee appointments from competitive civil service lists. Undersheriffs were appointed by the sheriff to direct each of the five local county offices. Examinations for undersheriff and chief deputies were limited to members of the local bar association, thereby limiting the senior jobs to experienced lawyers with distinguished educational pedigrees.¹⁴³

The responsibility of operating jails and transporting prisoners was deleted from the sheriff's capacity and the functions were transferred to the New York City Department of Corrections. The sheriff's office was relegated to matters of civil enforcement. The salaries of the employees were brought to a realistic amount without the benefit of fees.

The office of the New York City Sheriff became exclusive and unique in its formation. No other sheriff's department in the country operates in this manner.¹⁴⁴

As an elected official, the sheriff often times is more subject to popular will than an appointed police chief. Along those lines, from a professional police management perspective, the elected nature of the sheriff's office has presented problems indigenous to its own perspective. For instance: sheriffs with no law enforcement service or training have been elected to the position, sheriffs lacking skills have defeated sheriffs with greater skills by virtue of political popularity, there have been no statutory experience or education requirements placed on seeking the job, and survival in office has sometimes required political compromise at the expense of professional commitment.¹⁴⁵

141. Childs, R.S., "First Civil Service Sheriff", *National Municipal Review*, (June 1948), p. 1.

142. *Ibid.*, p. 2.

143. *Ibid.*, p. 3.

144. *Ibid.*, p. 4.

145. Garmire, B.L., (Ed), *Local Police Management*, (Washington D.C.: Institute for Training in Municipal Administration, 1982), p. 21.

[ACADEMIC INFERIORITY](#)

In discussions about police administration, the sheriff's office is frequently overlooked. Historically, the tasks and roles of sheriff's departments and police departments have been fundamentally different. Sheriff's law enforcement functions have often been relegated to jurisdictions of sparse populations that cannot support a municipal police agency. Sheriffs are typically elected, as opposed to appointed counterpart police chiefs. Also, sheriffs routinely have a custodial role in the detention of prisoners not common to municipal police functions. This all changed somewhat after World War II, when populations expanded out to rural areas. This eliminated part of the distinction between sheriffs and chiefs when "big city" problems came to the country.¹⁴⁶

The twentieth century brought a marked decline in strength of sheriff's departments in many parts of the country. As law enforcement became more abundant, a curious academic neglect of the office of the sheriff resulted in serious breaks of understanding regarding the role of sheriff in the criminal justice system. Literature about policing and law enforcement analyzed the office as a jailer, court bailiff, process server, and county tax collector. Little, if any, emphasis was placed on the office in police literature, and if there was reference to the position it was generally unfavorable. In 1925, Bruce Smith's book The State Police referred to the office as a "dyeing medieval" throwback. A later book by the same author, Rural Crime Control, alluded to county government in general as the "dark continent of American politics". A 1935 book by A.E. Parker and A. Vollmer, Crime and the State Police, stated that the sheriff was an outdated law enforcement institution.¹⁴⁷

Patterns of academic neglect continued after the mid-century, even as the nation's police interest was escalating. O.W. Wilson neglected to mention sheriffs in his 1950 book, Police Administration. R.E. Clift neglected reference to the position in the 1956 edition of A Guide to Modern Police Thinking but did make small reference to the office in his

third edition in 1970. George Felkenes devoted considerable discussion to the decrease and scope of the office in an inverse relationship with urbanization in his 1973 The Criminal Justice System: Its Functions and Personnel. He further observes that sheriffs were banished to only three modes of operation: (1) contract law enforcement for small or rural communities, (2) supervision of metropolitan police agencies along the east coast only, (3) civil process functions, and custodial functions as prescribed by law. Many other law enforcement journals have noted that the sheriff's law enforcement functions lacked the professional standards of larger police departments.¹⁴⁸

A strong criticism of the position came from Dana B. Brammer and James E. Hurley, who wrote A Study of the Office of Sheriff in the United States Southern Region in 1967. After they alluded to the sheriff often times being the most important, if not the sole law enforcement agency in many unincorporated areas of the South, they added:

"Unfortunately the sheriff must work under severe restrictions; (1) the county frequently is so small and/or so impoverished as to make an adequate program of law enforcement difficult to support; (2) tenure sometimes is restricted by state statute or constitution; (3) professional qualifications for the office are virtually nonexistent; (4) compensation sometimes takes the form of fees and commissions rather than a fixed salary; and (5) the time and resources for law enforcement work ordinarily are reduced by the requirement that the sheriff assume other responsibilities. For example, he usually is charged with supervision of the county jail and its prisoners, with serving civil process, with attending the courts and executing orders, and in some states with performing other duties such as collecting taxes, assisting at elections and so forth".¹⁴⁹

The elected nature of the office has been cause for the most serious indictments of the office. Allegations regarding a sheriff being required to participate in partisan politics in order to hold his office is the most prevalent criticism. Yet in reality, all law enforcement executives are politicians in one form or another. Some may refute this assertion, but only out of misguided notions that politicians are evil or that an administrator cannot be a politician and a professional manager at the same time. Realistically, a politician is nothing more than a person accountable to the public for decisions made in the performance of duty. Certainly a police chief or police commissioner could fall into this category as easily as a sheriff.¹⁵⁰

Stereotyped movie and television characterizations of sheriffs have almost never enhanced the stature of the office. Especially during the 1960's, when the United States was in an era of social unrest, sheriffs were held in a contemptuous light for their attempts to maintain peace. Southern sheriffs were cast in a critical light in media portrayals as dismal creatures attempting to restrict the civil rights progress of black Americans. Television programs like "The Dukes of Hazzard", "B.J. and the Bear", and movies like "Smokey and the Bandit", painted sheriffs as corrupt, lazy, stupid, inept, and not even minimally effective. During the same time, other media representations of big city police departments were depicting policemen as smart, tough, attractive, compassionate, and able to solve the toughest crimes with heroic and brilliant efforts. As the image of sheriffs was being tarnished the counterpart police officers image was being polished. This made for a vivid contrast. The appearance of sheriffs was of ineffective creatures that had not evolved from the Wild West period while more modern police agencies were held out as paragons of excellence.¹⁵¹

146. *Ibid.*, p. 22.

147. Struckhoff, D.R., *The American Sheriff*, (Joliet: Justice Research Institute, 1994), p. 43.

148. *Ibid.*, pp. 44-45.

149. Brammer, D.B. and Hurley, J.E., *A Study of the Office of Sheriff in the United States Southern Region*, (Bureau of Government Research, The University of Mississippi, 1968), pp. 1-2.

150. Holden, R.N., *Modern Police Management*, (Englewood Cliffs: Prentice Hall Career and Technology, 1994), p. 13.

151. Struckhoff, D.R., *The American Sheriff*, (Joliet: Justice Research Institute, 1994), p. 62.

THE CONTEMPORARY SHERIFF

The contemporary sheriff operates in various capacities in the 48 contiguous states. Alaska has no county government and therefore has no sheriffs. Hawaii does not have sheriffs, however, they do have deputy sheriffs that serve within the department of public safety. The vast majority of sheriffs are elected with exception in the state of Rhode Island, where sheriffs are appointed by the governor to serve for 10 year terms. There are some metropolitan areas like New York City (as previously alluded to) Denver, Colorado; King County, Washington; Multnomah County, Oregon; Dade County, Florida; and Nassau and Westchester Counties of New York State that have either appointed sheriffs or no sheriffs. Some independent cities have sheriffs, like Baltimore, Maryland and the St. Louis, Missouri. Virginia has 30 independent cities that elect a sheriff as well as all of the counties. In all there are some 3100 counties in the United States that have sheriffs.¹⁵²

The sheriff serves multiple functions, and the roles vary by jurisdiction. In general the roles are: conservator of the peace, jailer, court bailiff, server of court process, tax collector, and in some cases the county treasurer. The sheriff has statutory law enforcement responsibilities in all but nine of the 48 states that have a sheriff, and jail responsibilities in all but four states. According to a U.S. Bureau of Justice Statistics profile in 1993, sheriffs employ a total of 224,236 personnel. About 9 in 10 sheriff's departments have responsibility for investigating crimes. Departments in jurisdictions with a population of less than 100,000 are more likely to be responsible for investigating violent crimes than in larger jurisdictions. Departments serving a population of 500,000 to 999,999 are least likely to be the primary investigating agency within their jurisdiction for criminal matters.¹⁵³

In 1993, 97% of all sheriff's departments were responsible for court related functions, such as serving civil process, 93% provided court security, 92% responded to calls for service, and 88% provided a routine road patrol service. Many sheriff's departments had other responsibilities: 80% dispatched calls for service, 79% operated a county jail, 77% were involved in traffic enforcement and 65% participated in search and rescue operations. For fiscal year 1993, sheriff's departments had operating expenditures of \$10.7 billion dollars. Operating expenditures averaged \$66,500 per sworn officer and \$45,900 per employee. To fund the various components of sheriff's departments, it cost an average of \$45 per resident in 1993.¹⁵⁴

In 1993, the Los Angeles County Sheriff's Department was identified as the largest sheriff's department, with 11,285 full-time employees. Nationwide, there were 17 sheriff's departments that employed 1000 or more sworn officers and more than 300 departments employed more than 100 officers. In contrast to larger departments, nearly 1000 departments employed fewer than 10 officers and 19 sheriff's departments had just

one sworn officer. About half of all sheriff's department officers worked for 184 departments located in jurisdictions with 250,000 or more residents. On average, sheriff's departments nationwide, employed 73 full-time employees.¹⁵⁵

152. National Sheriff's Association, "1996 Annual Sheriff's Directory".

153. Bureau of Justice Statistics, "Sheriff's Departments 1993", (June 1996), NCJ-148823, pp 1 and 10.

154. *Ibid.*, Highlights, pp iii.

155. *Ibid.*, pp. 1-3.

DEMOGRAPHICS OF SHERIFF'S DEPARTMENT OFFICERS

In 1993, an estimated 1 in 7 sworn sheriff's personnel were women. About one-sixth of sheriff's officers were members of a racial or ethnic minority, with the percentage being significantly higher in those jurisdictions having a population of 500,000 or more. Blacks accounted for 10% of all sheriff's officers in 1993, which represented no meaningful increase over the 1990 statistics. There was about a 2% increase in black officers compared to the 1987 measure. Hispanic officers fared better during the same years. There was a 35% increase in hispanic officers in 1993 over the year 1990 and a 70% increase when compared to the 1987 figures.¹⁵⁶

Ninety-seven percent of all sheriff's departments in 1993 had formal educational requirements for new officer recruits, which typically called for completion of high school. About 8% of all sheriffs required at least some college from their deputy recruits. Just over 5% of the nation's sheriffs required a two year degree in 1993 but less than 1% of sheriff's departments required recruits to have a four year degree. An estimated 90% of all sheriff's departments employing 97% of all officers, required new deputy recruits to complete formal training. Virtually all of the departments serving a population of 500,000 or more required this, and departments serving smaller jurisdictions requiring training was slightly lower. On average, departments required 565 training hours for new recruits. About 25% of all sheriffs required applicant drug testing as a part of their pre-employment screening, and about the same percentage had follow-up testing.¹⁵⁷

156. *Ibid.*, pp. 3-4.

157. *Ibid.*, pp. 5-6.

EQUIPMENT

In 1993, 82% of all sheriff's departments armed their personnel with semi-automatic handguns. The rest were equipped with revolvers. A majority of departments either supplied the weapons or provided an allowance for the purchase of weapons. During the same year period, 68% of the nation's sheriffs supplied protective body armor to their regular field officers. Approximately 97% of all departments authorized officers to use

one or more types of non-lethal weapons. Impact weapons, such as batons, were the most favored of the non-lethal category of weapons. Following impact weapons were aerosol chemical weapons and pepper spray, that are traditionally used to disable subjects with a noxious dispersment from an aerosol canister. An estimated 39% of sheriff's departments employed one or more dogs for the purpose of law enforcement. In 1993, over 3000 dogs were maintained by the nation's sheriffs for constabulary related activities. Just over 4% of sheriff's departments used horses for law enforcement missions. Collectively, in 1993, sheriff's supported 1000 horses for this purpose. Nationwide departments operated about 52 cars per 100 sworn sheriff's officers. Boats were used by an estimated 30% of sheriffs for patrol functions. Only 5% of sheriff's departments operated fixed winged aircraft and 3% operated helicopters.¹⁵⁸

158. *Ibid.*, pp. 15-19.

JAILS

Within common law, the sheriff's duty to conserve the peace goes beyond the mandate to enforce criminal law. It also includes the responsibility to control, maintain, and care for inmates committed to their custody. Of the 3300 jails in the United States, 2700 have a county-level jurisdiction, and most of them are administered by an elected sheriff. Only in six states: Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont are jails for adults administered by state government. With 79% of the nation's sheriff's having direct supervisory responsibility over the county jail functions, corrections becomes a substantial piece within the context of sheriff's responsibilities.¹⁵⁹

By mid-year 1996, there were 591,469 adult persons held in local jails. This represents a 2.3% increase from the previous year. However, this represents a very small proportionate increase in comparison to the increases in the prior decade when the amounts grew at a staggering rate. In a ten year period between 1985 and 1994, jail populations doubled and have placed a colossal responsibility on sheriffs operating these facilities. Though it has been a burden, it has also created a demand that has transformed many sheriff's departments into large correctional maintenance centers. Construction of jails, hiring of personnel, purchase of equipment, diversion programs, and training have translated into immense growth for sheriff's departments.¹⁶⁰

Male inmates make up 89% of the local jail inmate census. On average, the female jail inmate population has grown at a greater rate than male counterparts. The female rate has increased on average 10.2% per year since 1985, while the male population has increased at a lesser 6.1% per year since 1985. The majority of local jail inmates are black or hispanic. White non-hispanics made up 41.6% of jail populations in 1996. Relative to the total number of United States residents, blacks are 6 times more likely than whites to be committed to a local jail. As of June 1996, 92% of the local jail capacity was occupied; which is substantially less than the previous historic record of 1989 when local jails were at 108% capacity. The decrease is due, in part, to the 173,000 bed increase at local jails since 1990.¹⁶¹

Issues of overcrowding and race have presented substantial dilemmas in jail management. Other pressures, like the prevalence of infectious disease and blood borne pathogens within correctional facilities have required sheriffs to strive for continuous improvements. Aids and HIV contagion in county jails has grown about 38% between 1991 and 1995. Based upon personal interviews conducted from October 1995 through March 1996 in the "Survey of Inmates at Local Jails", almost 6 in 10 jail inmates reported being tested for HIV. Of those tested, 2.2% of the population reported being positive. Jail officials in the last national "Census of Jails" (1993) reported that 6711 inmates were known to be HIV positive and 1888 had confirmed AIDS. The infection rates were highest in the jurisdictions servicing metropolitan areas. The disease predicament was yet another serious problem in corrections that jail administrators had to adapt to.¹⁶²

159. Clear, T.R., and Cole, G.F., *American Corrections*, (Wadsworth Publishing Company, 1997), pp. 147-149.

160. Bureau of Justice Statistics, "Prison and Jail Inmates at Midyear 1996", U.S. Government Printing Office, 1997, (#417-714/50014), pp. 5-7.

161. *Ibid.*, pp. 5-7.

162. Bureau of Justice Statistics Bulletin, "HIV in Prisons and Jails, 1995", U.S. Department of Justice, U.S. Government Printing Office, 1997, (#417-714/60008), p. 1.

COURTS

In all of the states that have a sheriff, the office serves the court in some manner. A major function of the sheriff to the court is to provide bailiffs. Typical duties of the bailiffs are to provide court security, assist with the flow of cases, escort prisoners to and from the courtroom, and maintain juries. In many states, the sheriff sustains the entire operation of the courthouse. In some jurisdictions, sheriff's personnel are assigned to county court judges as their personal aides. According to the National Sheriff's Association (1970), the average county was supplied with 4 sworn and 2 civilian personnel to various court functions.¹⁶³

Another significant role of the sheriff is to provide civil law enforcement service on behalf of the courts. Municipal police officers are generally prohibited from performing this function. In the event enforcement is needed on behalf of the court, exclusive of criminal law enforcement, the sheriff is the primary agent in the United States to provide it. Civil process service, summonses, evictions, service of court orders, writs, repossession orders, child support orders, and orders of protection are typical issues that are dealt with by sheriff's personnel. Richard Talamoe, Undersheriff of New York County, New York, has described this process to me using the following metaphor:

"When I look at the statue of justice and I see the blindfolded lady holding the scales in one hand and a sword in the other, the sword to me represents the office of sheriff".¹⁶⁴

In other words, relief in civil matters is directed by the courts but extracted by sheriffs. If a debtor fails to pay a creditor, a court order may direct the payment. If the debtor fails to follow the mandates of the court, the sheriff, representing the creditor can extract payment through the garnishment of wages or the seizing of property. Similarly, if a tenant is ordered by a court to vacate a premises of a landlord, it is the sheriff who draws the sword to separate the tenant from the property and restores it to the landlord's control.

Without this type of enforcement effort, violations of law, short of criminal issues, would go unenforced in most jurisdictions.

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163. *Struckoff, D.R., The American Sheriff, (Joliet: Justice Research Institute, 1994), p. 58.*
164. *Peter Talamoe, August 8, 1997 interview.*

CHAPTER VII

THE FUTURE

THE PROSPECTS

To explore the possibilities for the future of the office of sheriff, it is important to reflect on its past. The office reached a peak in early England, and in most respects, other than the king, it was the most influential position in the country. Why then, did it fall into relative obscurity? Why was it relegated to a position of insignificant ceremonial function without any real power? It was diminished because of the sheriffs themselves. Their inability to adapt to a changing world was their undoing. Personal greed and avarice, coupled with an incapacity to set professional standards led to a contempt for the office that ultimately resulted in legislative regulation. The restrictions ultimately led to other positions taking over functions that were formally controlled by sheriffs.

If the failures of sheriffs led to the English downfall, then why did it rise again in the New World? I submit that it was because of a metamorphosis that occurred in the changing territory. The population and geographical shift within the colonies required ready made forms of offices and positions. The success of the office in Colonial America occurred because of a lack of other alternatives rather than for justification of accomplishment. The office in Colonial America held no great potential for growth and may have fallen into lackluster obscurity again if it had not been for yet another population and geographical shift. The Westward expansion of the nation uplifted the office. Had it not been for matters of violence and crime in the West, it may not have continued there with any enthusiasm.

After being neglected by criminal justice and other governmental academics in the twentieth century, yet another decline occurred. Because populations and geography cannot be relocated, the office must seek other ways to rejuvenate itself. Self-examination of the position, to inspire future growth, is fundamental to prevent a gravitational pull against projected evolution. Some of the greatest criticism about the position of sheriff lies in its political roots, which may in fact be its greatest asset. As an elected official, a sheriff can be a social force within a community. Instead of being manipulated by public will, a sheriff can represent the public's will. Being the sole law enforcement officer in which the electorate can either endorse or discharge makes the position very appealing. An appointed police official, in most cases, has strong protection of civil service that prevents removal except in extreme cases. This protection prevents community members from having a direct cause and effect on these positions. Therefore, issues of importance, particularly with regard to interest groups, can be neglected. An elected official would be more apt, or even required, to listen to issues of importance. Issues requiring a response can become a mandate by individuals, who might be less powerful with other types of administrations.

Elections represent the very foundation of our country and reflect our democracy. A sheriff can act as a representative of the community within the criminal justice system. It is inconceivable to imagine appointing a senator or choosing a member of congress from a civil service test. The very premise of our democracy is based on choosing our top executive by election every four years. "One voice one vote" has provided for individual participation in the selection process of American leaders since the inception of our government. The elective process of selecting a sheriff can be translated into a positive

issue about the office rather than a negative one. Sheriffs can point to the fact that if the public is not satisfied with the job they are doing, they can be voted out.

PROFESSIONALISM

If the history of the office tells us nothing else it must be recognized that it is critical for sheriffs to maintain professional standards. Issues of neglect, misfeasance, and malfeasance of the office have been intertwined with the function for so long and for so many different reasons that it is difficult to separate fact from fiction with regard to professionalism. The Provisions of Oxford was the first attempt at reform and definition of ethical principles regarding the office. The National Sheriff's Association has adopted a "Code of Ethics of the Office of Sheriff" that helps elevate the integrity of the office. The Code is as follows:

"As a constitutionally elected sheriff, I recognize and accept that I am given a special trust and confidence by the citizens and employees whom I have been elected to serve, represent, and manage. This trust and confidence is my bond to ensure that I shall behave and act according to the highest personal and professional standards. In furtherance of this pledge, I will abide by the following Code of Ethics.

I shall insure that I and my employees, in the performance of our duties, will enforce and administer the law according to the standards of the US. Constitution and applicable state constitutions and statutes so that equal protection of the law is guaranteed to everyone. To that end I shall not permit personal opinion, party affiliations, or consideration of the status of others to alter or lessen this standard of treatment of others.

I shall establish, promulgate, and enforce a set of standards of behavior of my employees which will govern the overall management and operation of the law enforcement functions, court related activities, and correction operations of my agency.

I shall not tolerate nor condone brutal or inhumane treatment of others by my employees nor shall I permit or condone inhumane or brutal treatment of inmates in my care and custody.

I strictly adhere to standards of fairness and integrity in the conduct of campaigns for election and I shall conform to all applicable statutory standards of election financing and reporting so that the Office of Sheriff is not harmed by the actions of myself or others.

I shall routinely conduct or have conducted an internal and external audit of public funds entrusted to my care and publish this information so that citizens can be informed about my stewardship of these funds.

I shall follow accepted principles of efficient administration and management as the principle criteria for my judgements and decisions in the allocation of resources and services in law enforcement, court related, and corrections functions of my office.

I shall hire and promote only those employees or others who are the very best candidates for a position according to accepted standards of objectivity and merit. I shall not permit other factors to influence hiring or promotion practice.

I shall ensure that all employees are granted and receive relevant training supervision in the performance of their duties so that competent and excellent service is provided by the office of sheriff.

I shall ensure that during my tenure as sheriff, I shall not use the office of sheriff for private gain.

I accept and adhere to this code of ethics. In doing so, I also accept responsibility for encouraging others in my profession to abide by this Code.

Every sheriff in the United States who is a member of this organization is required to adhere to the principles of this Code. Most state sheriff's associations have similar oaths that require the highest ethical and professional standards for membership.¹⁶⁵

Ethical considerations are only one part of police professionalism. It can also be assessed by educational requirements, training, equity in enforcement, and community input into the various processes. Many of these points have been dealt with by police chiefs, but unfortunately sometimes they have been neglected by sheriffs. David Struckhoff identifies a possible approach toward professionalism by sheriffs in The American Sheriff:

"A possible alternative way of considering the sheriff professional is to consider him a professional administrator responsible for hiring and supervising subordinates capable of assisting in the supervision of the various functions of the office.

From the above it is clear that the sheriff is expected to be professional in many roles. As is evident, excepting the police and corrections roles, the criteria for professional administrative conduct are only seldom discussed in the literature on sheriffs, even though themselves sheriffs have taken the issue to heart".¹⁶⁶

As with any other formal agency, particularly a law enforcement agency where life and death decisions are made, formal policies and procedures must be developed. Counselling for minor rule violations, and more severe discipline for major or repeated violations, is necessary for all employees of sheriff's organizations. Corrective discipline is a positive method for improving poor performance. This approach allows the employee to correct the problem behavior before discipline is applied. A key element of corrective discipline is that the employee and the manager share the responsibility for solving the performance problem. Upholding the public's trust through the use of discipline will ultimately reward the office with respect. Sophisticated social and communication skills are essential for sheriffs and their employees to be able to gather community support. Sheriffs must realize that their representatives reflect upon the image of the leader and all acts, either good or bad, will reveal their effectiveness portrait.¹⁶⁷

At the county level, the sheriff, in most instances, represents one of the highest, if not the highest authority of law enforcement. Independence and self-governance is critically important to this office. Do to the elective nature of the position, it has an autonomous nature greater than that of other appointed law enforcement or correctional administrators. As the highest representative of the department, the sheriff answers ultimately to the voters, rather than to other government officials. It is important to note that each state having a sheriff has a formal process for removal or impeachment of the position.¹⁶⁸

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165. National Sheriff's Association, "1996 Annual Directory".
166. Struckhoff, D.R., *The American Sheriff*, (Joliet: Justice Research Institute, 1994), p. 92.
167. Holden, R.N., *Modern Police Management*, Englewood Cliffs: Prentice-Hall, Inc., 1994), pp.331-332.
168. Struckhoff, D.R., *The American Sheriff*, (Joliet: Justice Research Institute, 1994), pp. 94-95.

CORRECTIONS

County level corrections is an area that sheriffs control to a great extent at this time. As previously discussed, most local correctional facilities are administered by an elected sheriff. However, in the past several years, the number of sheriffs in this role has diminished. In 1976, 89% of all county jails were operated by sheriffs. By 1993, this number decreased to 77%. This significant decrease in the functional capacity of the sheriff came at a time of its greatest growth and need for local correctional facilities. Based on this need, it is logical to assume that sheriffs were needed to a greater, not lesser extent. The increased use of privatization, or the operation of governmental functions by private companies, was one reason for the decrease. Many states have authorized the use of private vendors to operate their county jail facilities. In other instances, sheriffs were removed from the statutory authority of running county jails. Local correctional commissioners, or like positions, have been established in some communities to displace the county sheriff with regard to jail operations.¹⁶⁹

Often, sheriffs have placed less priority on the operation of their county jail than they did on their law enforcement functions. Many times, jails have received proportionately less resource allocation and less management emphasis than did the sheriff's police purpose. The first priority for personnel frequently went to the road patrol rather than correctional needs. Pay grades and qualifications for sheriff's correctional jobs were traditionally less than that of the patrol counterparts. Within agencies, jail correctional officers held less esteem and were often referred to in pejorative jargon as "hacks", "screws", and "turn keys". Discontent and difficult working conditions ultimately followed and the end result did not benefit jail operations.¹⁷⁰

Increased civil service standards, unionization of correctional staff, and increased pay and benefits have helped professionalize the jail officer. Correction officers are continuing to strive for much needed respect within the system that they are a critical part of. Joseph Danvers, a correction officer with the Broome County, New York Sheriff's Department addresses some of the issues in a guest viewpoint to the Binghamton, New York Press and Sun Bulletin. His opinion reads in part:

"I am a correction officer. I work in a jail. I am *not* a guard. That person plays basketball and football, and works at school crossings.

I work at a maximum security correctional facility. I am empowered by the state of New York to enforce its penal and criminal procedure laws, and uphold the rules and regulations of the county and New York State Commission of Corrections.

In short, I *am* a policeman. My best is totally inhabited by criminals, who by definition are people with propensity to break laws, rules and regulations. I am outnumbered by as many as 50 to 1 every minute of every hour of every shift I work. I do not carry weapons

on my beat, nor do I have a vehicle or even a secure office area. In summary, my life is on the line each moment I report to work.

A correctional facility is a very misunderstood environment. The average person has little knowledge of its workings. Society sends its criminals to correctional facilities and as time passes forgets about them. The crime that they committed fades from memory.

The common notion is that jails are places where bad people are warehoused in order to keep them isolated from decent, law-abiding citizens of the outside world, in an environment in which they can cause no harm. That is another misconception; that inmates cease to be a problem once incarcerated.

Correctional facilities are full of violence perpetrated by prisoners not only on each other, but worse yet against the staff as well as my brother and sister officers. Felonies are committed daily but are referred to as "unusual incidents". They rarely result in public prosecution. The response from prosecutors, if the crime is even submitted to them for review, is generally that the incidents "go with the territory".

Although you will not see me on *Rescue 911*, *Cops* or other police shows, I am a dedicated, educated, law enforcement *professional*. I am the forgotten cop, hidden from public view, doing the most dangerous job among the most dangerous individuals.

My goal is to serve with honor, and to one day receive the recognition and approval from the public I silently deserve".¹⁷¹

Ironically, sheriffs with strong police affiliation have sometimes found that their jail would provide the greater source of funding. During troubled economic times, road patrol functions have frequently been reduced or eliminated. Many communities within counties have alternative police functions independent from the sheriff. It has sometimes been difficult to justify to taxpayers that road patrol functions of the sheriff should be funded in areas without police protection, by taxpayers from other areas within the county that already have a police function. Nonetheless, the county jail creates a benefit to all jurisdictions within a county, whether or not they have local or county enforcement efforts.¹⁷²

Just as there are areas of weaknesses, where sheriffs hold little powers, there are pockets of strength throughout the United States where sheriffs rule supreme with regard to law enforcement functions. Areas of the United States South and West are areas that represent significant strongholds for sheriffs to administer criminal justice functions. These areas are likely to keep other developing town or city law enforcement agencies to a minimum where the sheriff has been the superior agency. The ability for an agency to be funded by a broader tax base, such as a county as opposed to a smaller government unit, helps sheriffs maintain their strength in these regions. One universal administration is often cheaper to operate rather than the collective costs of several smaller ones. By having one single administration, the sheriff can often provide a cheaper service. Cost effectiveness increases the likelihood of longevity, particularly in times of financial need.

Many areas of law enforcement, such as correction and civil enforcement lay statutorily with the sheriff. Amending constitutions or creating legislation to take these functions away are unlikely in most cases. Alternative agencies have not shown any great desire to take on these functions, and in all probability the functions will stay vested with the majority of sheriffs. The strength of the office is also prone to stay powerful where it has

been traditionally potent. As long as the public is confident in the ability and the integrity of the office it will undoubtedly remain a stable force in American government.

169. Bureau of Justice Statistics, "Sheriff's Departments 1993", (June 1996), NCJ-148823, p. 4.

170. Duffee, D.E., *Correctional Practice and Policy*, (New York: Random House Inc., 1989), p 243.

171. Danvers, J., "Correction Officer has Dangerous Beat", *Press and Sun Bulletin*, Binghamton, New York, (10-22-97), p. 10, section A.

172. Duffee, D.E., *Corrections Practice and Policy*, (New York: Random House Inc., 1989), pp. 244-245.