

Charter Review Committee

Meeting Date: August 24, 2023

Questions Received by 12:00 p.m. on August 24, 2023

Background

In an effort to ensure transparency and open communications, staff is compiling emails and public comments related to the work of the 2023 Charter Review Committee. This information will be provided to the Committee as supplemental meeting materials before each meeting and will include all questions and/or comments received by 12:00 p.m. the day of the meeting.

In an effort to incorporate questions asked at the two community input sessions scheduled for August 24 and September 14, this information is being compiled with responses to be made available to the Committee and the public at the September 21, 2023 meeting of the Committee. This process will allow for all responses to be provided to the community at one meeting. Following the meeting on September 21, the questions, corresponding answers and public comments will be made available on the Charter Review Committee webpage which can be found at: SantaClaraCA.gov/2023CharterReview

Emailed Questions (in order of submittal)

Email Question (8/8/2023):

1. Does the committee need to be present for the Issuance of Staff Report to Transmit Committee Recommendations in November?

Staff Response:

1. The Committee as a whole is not required to be present at the November 7 presentation of the Committee recommendations to the City Council. However, the Committee will need to take action to determine who from the Committee will present the recommendations. Ordinarily, that would be the Chair. However, the Committee could decide to nominate an alternate presenter(s).

Please note that this meeting is also an opportunity to recognize and thank the Charter Review Committee for its dedication and service. For that reason, we as staff would strongly encourage all members to be present so that recognition can occur. We certainly understand if that is not possible.

Email Question (8/8/2023):

1. If you have the links for the four items below, please send them.
 - November 1952 Measure C: Elect Police Chief and City Clerk
 - November 7, 1972 Measure C: City Clerk; Powers, Duties
 - July 17, 2018 Ordinance No. 1983
 - July 17, 2018 Report to Council on Ordinance No. 1983

Staff Response:

1. The link for the report on Ordinance No 1983, as well as the actual Ordinance, can be found here: [City of Santa Clara - File #: 18-487 \(legistar.com\)](#). We have provided the Committee with the information that is available to us for 1952 and 1972 measures. Unfortunately, these measures pre-date our system and the City does not have a link to those documents. The City Clerk's office has requested information from the County Registrar of Voters so that we can provide any arguments and/or rebuttals that may

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have been submitted. We will forward to the Committee should the Registrar be able to provide the documentation.

Email Question (8/9/2023):

Please send this information if you can:

1. The requirements for recalling city elected officials.
2. A summary of 2 or 3 recent city recalls that made it to the ballot.
3. The study sessions and meetings links that Council Member O'Neill is referring to regarding Ordinance No. 1983 at the 7-17-2018 Council Meeting.

03:07:13 Council Member O'Neill.

03:07:20 And we had study sessions and meetings

03:07:25 about this and what I observe over the

Staff Response: Research in progress.

Email Question (8/15/2023):

Please send the memo referred to in the attached news article, that City Manager Deanna Santana wrote and sent to the City Council (excerpt pasted below).

"This new structure works to stabilize succession planning within the department, which has been a desired focus for quite some time," City Manager Deanna Santana wrote in a memo to the City Council.

"Given that we anticipate structural changes driven by new leadership, service priorities, and fiscal realities. It is important to note that these assignments and the department's structure will continue to change to align to service goals and fiscal resources."

Please help with these questions:

1. What are the salaries for each of the two assistant police chiefs?
 - a. Do they report to the city manager or city council or both?
2. How much does it cost to have the chief and clerk on the ballot? In other words, how much money would we save if the chief and clerk were not on the ballot?

Staff Response: Research in progress.

Email Question (8/17/2023)

Please help with these questions:

1. Are we allowed to remove the requirement that the chief and clerk must be a city resident? I heard somewhere that this is a state or federal law; for someone to be elected, they must reside in the jurisdiction.
2. Can we have the public hearings transcripts (aka Caption Notes) available on santaclara.legistar.com? I notice the 9/21/2019 CRC public hearing does not have transcripts.

Staff Response: Research in progress.

Email Question (8/21/2023)

1. What are the standard time limits for speakers not addressing an item on the agenda?
2. What are the standard time limits for speakers addressing an item on the agenda?

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3. If applicable, how is this monitored in a committee session, and especially a formal 'public hearing at the library?

Staff Response: Research in progress.

Email Question (8/22/2023)

1. Does California law allow additional qualification criteria (beyond what the charter currently states) to be established for elective offices? For example, could we require the City Clerk obtain MMC, CPMC qualifications?

Staff Response: Research in progress.

Email Question (8/22/2023)

1. How many sworn police officers are employed by the Santa Clara Police Department?
2. Of the number of sworn police officers (answer to question 1), how many live within the City of Santa Clara boundaries?
3. Of the number of sworn police officers who live within the City of Santa Clara (answer to question 2), how many are in positions of leadership at this time (such as Captain, Assistant Chief, or other positions of leadership which could serve as preparation to later become Police Chief)?
4. For our past elections for Police Chief and City Clerk, please provide a list of the year of each election and the number of individuals on the ballot (does not need to be names, just numbers). I'd like data for the past 30 years please of how many people were on the ballot for each position.
5. In the past 30 years, how many times has a Police Chief or City Clerk stepped down from their position during their term of office, leaving their position vacant (i.e. years in between elections when a Police Chief or City Clerk resigned during their term of office), and what happened in each case where someone stepped down (was there an appointment of an interim, was there an election mid-cycle, or some other solution?)

Staff Response: Research in progress.

Public Comment (received as of August 24, 2023)

Public Comment #1 – August 10 Meeting

To the Members of the Charter Review Committee:

Minimum Qualifications for Santa Clara's Chief of Police

Measure I was submitted to Santa Clara's voters in 2000 because of the belief that the then-current Charter's requirements were insufficient for a candidate for Chief of Police with the duties and responsibilities which were incumbent for that Office. The current Charter Review Committee must keep in mind that these were **minimum** requirements that reflected the opinion of the City Attorney Michael Downey in 2000. He believed that the Charter could not hold higher qualifications than those required of a Sheriff in the State of California.

I do not believe that the Committee should be limited by this belief; and should actively explore raising the standards for the elected Chief to be consistent with those of appointed Chiefs in

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adjacent jurisdictions; and that Santa Clara is not restricted by State or Federal law to limit the qualifications for an elected Chief of Police.

Respectfully Submitted,

Charles Arolla, Chief of Police (Retired)
Santa Clara Police Department.

Public Comment #2 – August 10 Meeting

To the 2023 Charter Review Committee Members:

I was raised in Santa Clara, am a graduate of Santa Clara High School, Mission College in Santa Clara, and Santa Clara University, and have spent most of my career working in Santa Clara. Throughout these past 65 years of residency and/or working in the City, I have had many interactions with the Santa Clara Police Department and its officers. (Never due to an unlawful action on my part!!!) Many times, however, as they have responded on calls, provided safety, given advice, and once even providing emergency life-saving care to a member of my family. In short, I believe we have one of the best, most decent, and professional police departments in the State. This is due in large part to the excellence in leadership, which is a direct result of our practice of holding the Police Chief responsible to the citizens of Santa Clara through the elections process.

I wish to voice my strong support for continuing the role of Police Chief in Santa Clara as an elected position. There are many reasons for doing so:

- An “elected” Police Chief promotes accountability to the people, through the democratic process.
- It provides greater transparency, in an age when this is most vitally important.
- A Police Chief elected by the community is, by the very nature of the process, more representative of the community.
- An elected Police Chief, rather than a politically appointed Police Chief, has a greater sense of legitimacy within the community. This has a direct impact on the level of public trust in our police department.
- A Police Chief who knows he/she is directly accountable to the people will, I believe, be more responsive to the people’s needs.
- An elected Police Chief is — hopefully — independent of political influence.

These are just a few of the reasons I strongly support Santa Clara’s continuation of an “elected” Police Chief.

Sadly, in this day and age, the fact, or even the impression of political influence is becoming more dominant in our civic landscape. We should make efforts to maintain public trust in our police force by avoiding any sense or appearance of political influence. We have seen in many cities the damaging impact when police forces lose the trust and confidence of the citizenry. Santa Clara does not suffer that. I ask you to please help insure the continuance of our fine and independent police department’s reputation and accountability to our citizens through the elections process. Yes, Santa Clara is the only major city in California with an elected Police Chief. Santa Clara is the only city continuing to do it right, as evidenced by having the finest Police agency in the county, state, and beyond.

Sincerely,

Preston Metcalf

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Public Comment #3 – August 24 Meeting

City Clerk I definitely think should be appointed. I don't really get why it's elected to begin with - most voters don't even know what it means or does.

Police Chief, my biggest thing is what influence the police union / cops in general would have. Our county has a pretty good record with cops, but in general they are a group that we should always be skeptical of. That being said, I don't think most voters really know the difference when they are voting, and sometimes it's not a real race anyway with only one candidate. I guess I would lean towards appointed, with a lot of specific qualifications and safeguards in place. I would love for our police and sheriff etc to become more and more community oriented, reflecting actual needs. This probably has nothing to do with the charter, but to give you an idea I'm in big favor of mental health 911 calls going to social workers the same way that physical health ones go to EMT and not police.

R. Elysa Gurman (she/they)

Public Comment #4 – August 24 Meeting

I have a thought about the issue of appointed v. elected police chiefs. Personally, I don't want a police chief spending time and money campaigning. Their time should be spent serving the public. And voters don't know who they are or are not voting for. Those voting are uninformed generally.

That said, I'm concerned about an appointed police chief as I don't want the position to be up for grabs every time there's a council change. I think the best way to appoint a police chief would be with a committee that represents the city demographics.

My idea is that there should be at least 1 council representative, the city clerk, citizens from different parts of the city and representing different backgrounds and identities. And there should be representation from the police force, but not the POA. I think it's important to hear from those who will have to report to the chief. We need to know if they respect the person if they are already a part of the force.

It's a good idea to have a knowledgeable and wide pool of candidates to choose from.

Melinda Berlant

Public Comment #5 – August 24 Meeting

1. Should the City Council consider a Charter amendment that would change the position of Police Chief from elected to appointed? **Yes**
2. Should the City Council consider a Charter amendment that would change the position of City Clerk from elected to appointed? **Yes**

James Baxter, 2655 Warburton Ave., Santa Clara 95051

Public Comment #6 – August 24 Meeting

As a resident & a 10th generation US citizen, I opt for the process of sheriff by ELECTION. More voter input regarding government officials is urgently needed, of course.

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Thank you for due consideration of what Americans want & need & ask for to keep our democracy.

Eve

Public Comment #7 – August 24 Meeting

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This is a reckless, and misguided attempt to remove the Chief of Police as an elected position. Here are 6 reasons why Santa Clara should maintain the Chief of Police as an elected position (and why other California cities should follow our lead and elect their Chiefs).

1. It makes the position more responsive to the people.

We want more transparency. We want more democracy. We want the platforms, goals, and philosophy of the Chief of Police to be campaigned upon in public, not behind closed doors. We want the Chief to work directly for the people, and not to be beholden to a small group of people, or worse, one person.

2. It forces “skin in the game.”

People make better, more rational, and more prudent decisions when they face the downside risk of the decisions they make. Police Chiefs are no different. By mandating that the Chief lives in Santa Clara, you force the Chief to be part of the community, rather than an indifferent policy maker.

3. It avoids the leap-frogging.

As a mid-sized department, the majority of external candidates for the position will have their eyes on the next Chief position at a larger, “more attractive” department. They will make decisions to burnish their resumes, rather than improve the quality of life of Santa Clarans, in order to jump positions. They won't have built up the loyalty to the City, credibility within the department (and don't underestimate the critical function leadership plays as the department head) and won't have the necessary ties to the community (see point #2). We don't want Santa Clara to become a stepping-stone. We want it to remain a destination department.

4. We'll rely on the wisdom of the people to make a choice, not the hubris of the Council or City Manager.

First off, the City voted on this matter in 1994 and 2000. And a Charter Review committee revisited it roughly ten years later. So, it has already been asked and answered in recent history. What has changed since then? It wasn't an uprising by the people, that's for sure. This issue wasn't even a part of the campaign platforms of the Councilmembers that are raising it. At what cost?

To change the Charter, Councilmembers should first campaign on the issue so their constituents could know their intentions. If they win their election, they should bring their platform to the table. But this whole process has been a rushed sneak attack. The budget for this committee was also rushed - just in case a Council Member got "sick."

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The only complaints I've heard leveled against Chief Nikolai reek of elitist credentialism. He didn't go to a nice enough school. A sad and petty complaint. I haven't heard any problems with his policies, leadership, or actions.

5. **Creative solutions are needed to reform and improve law enforcement.**

To enact big changes, you need to have buy-in from your employees. An externally appointed Chief of Police that hasn't had the opportunity to develop institutional knowledge and credibility won't have the leverage or mandate to make significant changes to the police department. An internal candidate that has spent his or her career dodging tough assignments and pursuing rank at all costs will not inspire the line officers to step up to this challenging profession.

6. **The grass isn't always greener.**

While SCPD is largely viewed as the gold standard of policing in the Bay Area, look elsewhere for how other police departments are performing with appointed Chiefs. Our neighbors to the north, San Francisco, Portland, and Seattle, are terrible examples of cities that operate with a politicized Chief of Police under the thumb of an ideological Council and City Manager. Disastrous.

Chiefs are **hired by the people** to make tough decisions. Give them the **freedom** and **independence** to make them.

And if they don't, well, **vote them out.**

Respectfully

Keith Parks

3563 Londonderry Drive Santa Clara

Public Comment #8 – August 24 Meeting

I wish to have my opinion voiced at the upcoming meeting on Thursday, Aug. 24, 2023.

1. Should the City Council consider a Charter amendment to change the position of Police Chief from elected to appointed? **NO!**
2. Should the City Council consider a Charter amendment that would change the position of City Clerk from elected to appointed? **NO!**

Thank you.

Mary Kimura

2640 Donovan Ave.

Santa Clara CA 95051

Public Comment #9 – August 24 Meeting

1. Should the City Council consider a Charter amendment that would change the position of Police Chief from elected to appointed? **No.**
Response: Our liberal city government can not be trusted to do what is best for the city of Santa Clara. The citizens of the county should be trusted with this decision.

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2. Should the City Council consider a Charter amendment that would change the position of City Clerk from elected to appointed? NO

Response: Our liberal city government can not be trusted to do what is best for the city of Santa Clara. The citizens of the county should be trusted with this decision.

Public Comment #10 – August 24 Meeting

Charter Review Committee Members: thank you for your time to review, examine, and make recommendations based on data driven facts and independent analysis!

Attached to this email and hyperlinked below are studies on the problems of an elected police chief/sheriff. The studies are from notable institutions such the Virginia Law Review, Hofstra University, Harvard University, and a CBS News Poll which, I believe, support why Santa Clara residents should be able to vote on a Charter Amendment. Keep in mind that elected police executives are usually sheriffs, not city police chiefs, but the research and opinions apply to both regardless of specific title.

1. James Tomberlin, [Virginia Law Review](#). “Don’t Elect Me”: [Sheriffs and the Need for Reform in \[County\] Law Enforcement](#).
 - Page 113: “This Note argues that **elections are not functioning as an effective accountability mechanism** and that county government must be given power to act as a check on county law enforcement”.
 - Page 142: “However, what **these examples illustrate** are the differences in how state law governs the city-police department relationship as compared with the county-sheriff relationship, and **the implications these differences have for local accountability**”.
 - Page 148: “For example, in 1954, St. Louis County, Missouri voted to amend its charter to transfer nearly all of the sheriff’s powers to the newly formed county police department. Missouri was atypical in two respects: broad powers were granted to counties under the state constitution and all reference to the sheriff’s office was removed in their 1945 Constitution. **This constitutional backdrop allowed the county to create a county police department and disempower the sheriff.**”
2. Kareem Pantan, Kevin Nolan, and Jess Rigos of [Hofstra University](#). “[Electing Law Enforcement Leadership: Examining the Effects of Politics and Job-Related Qualifications on Personnel Assessment and Decisions for Sheriff](#)”.
 - Page 60, Abstract: “Results suggest that voters form unique perceptions of candidates’ person-job and person-organization fit, these perceptions are heavily influenced by partisan beliefs...**voters are approximately 40% more likely to endorse candidates with lower job-related qualifications when they share their political affiliations**”.
 - Page 61: “Personnel selection **decisions for nonelected positions** are typically made by a select few organizational insiders...**are expected to have in-depth knowledge of job requirements for the positions** being filled”.
 - Page 62: “voters commonly lack commensurate insights about personnel selection for elected positions. **Nonelected positions emphasize the importance of placing greater weight on the compatibility between candidates’ job-related qualifications and job requirements**”.

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- Page 65, Results: “With political science research suggesting that **voters’ evaluations** of candidates are more **often influenced by value-laden partisan heuristics than objective information**”.
- 3. Michael Zoorob, Department of Government, **Harvard University**. [“There’s \(Rarely\) a New Sheriff in Town.](#)
 - Abstract: “In light of widespread reports of misconduct by elected sheriffs and their employees, these **results suggest that elections may not be sufficient to produce responsible local government.**”
 - Page 3: “**With great power comes great opportunity for scandal.** And Sheriffs frequently make their way into the headlines for eccentric behavior.”
 - Page 12: “Rossignol v. Voorhaar (2003) describes an instance of a Sheriff’s deputies collecting and incinerating all issues of a newspaper critical of their employer on election day. The **advantages of this control over employment is compounded by the limited supply of candidates who can run for Sheriff by virtue of county residency requirements** and domain-specific functions. As I have shown, a large portion of county Sheriff elections are uncontested”.
 - Page 17: “gains instability could be paid for in part by less accountability as **it is much harder to replace a misbehaving Sheriff than a misbehaving police chief**”.
- 4. **CBS News Poll**. [“Most Americans think changes to policing are necessary”](#).
 - Police Procedures, Major Changes Needed – 62% of Democrats, 49% of Independents, 19% of Republicans said yes.
 - Job Your Local Police are Doing – 50% said Somewhat Good, 14% said Somewhat Bad. Only 28% said Very Good.

And while you’re considering a recommendation to put a Measure on the ballot, rest assured if the charter is changed to appoint a police chief there are plenty of already available resources to guide the City of Santa Clara.

- International City/County Management Association with Police Executive Research Forum: [“Selecting a Police Chief, A Handbook for Local Government”](#).
- Cedric L. Alexander, Director of Dekalb County Police Department, and past president National Organization of Black Law Enforcement Executives. [Six Questions to Ask When You Hire a Police Chief](#)
- The cities of [Campbell](#), [Gilroy](#), [Los Altos](#), [Los Gatos-Monte Sereno](#), [Milpitas](#), [Morgan Hill](#), [Mountain View](#), [Palo Alto](#), [San Jose](#), and [Sunnyvale](#) all have appointed police chiefs and systems for Santa Clara to model itself after.
- Santa Clara’s current City Manager and City Attorney came from the cities of [San Bruno](#) and [Chula Vista](#) that have appointed police chiefs, they know how to work with and manage them.

I feel compelled to dispel unfounded information and opinions you seven were subjected to during the first CRC meeting on Thursday August 10, 2023. A commenter identifying herself as Nancy Biagini made claims that she’s “looked at more than one national study” and Human Rights Commissions “unanimously say the best way to reform a police or law enforcement movement is to elect your police chief.” Before I countered Ms. Biagini’s claims as false, I did reach out to Nancy via her known NBiagini@SantaClaraCA.gov, n***i@gmail.com, and nb***@aol.com email addresses seeking to review the studies and commissions she

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referred to. Ms. Biagini refuses to respond and substantiate her claims, I've attached the email correspondence to this email for your review. Ms. Biagini's statements appear to be intentionally false as there are no independent national studies or Human Rights Commissions that recommend electing a chief of police or sheriff.

In addition to Ms. Biagini's debunked claims there were also six other commenters during the first CRC meeting who all appeared scripted. There were even a few tactics employed that seem to carry on old indirect **Jim Crowe Era voter suppression tactics** intended to keep people from voting...

- Disinformation: Telling the Charter Review Committee that monies earmarked to support democratic voting should instead be spent on redesigning and constructing a new pool. The money allocated by the City Council and City Manager can't be used for the pool. The Santa Clara Swim Center needs to be replaced, not maintained, and is estimated to need a [voter approved \\$100-million Bond Measure](#). That is separate and has nothing to do with allowing voters to decide if the position of Police Chief should remain elected or changed to appointed.
- Social Caste: The good old days Burt Field, Pilar Furlong, and Dana Caldwell reminisced back to 1963, 1973, and 1980, respectively. Do you know what was happening in this country during those periods? Minorities were not allowed to marry Caucasians in some areas or share the same bathrooms and water fountains in 1963 ([1964 Civil Rights Act](#)); prior to 1974 women were not allowed to take out a home mortgage without a male cosigner ([Bankrate](#)), and the [City of Santa Clara was 83.2% White](#).

Since 1952 a lot has changed for the better in and around the City of Santa Clara. Everyone shares the same bathrooms and water fountains regardless of ethnicity, 10% of all married couples are interracial, unmarried women outpace men in homeownership, and the [City of Santa Clara is 72.4% "minority"](#). Anyone who says the voting public shouldn't have the right to revisit laws, ordinances, or charters from time to time probably hasn't been denied equal rights. Up until the year 2000, anyone without any law enforcement experience could have been a candidate for police chief but [through voter ballot initiative](#), those requirements were changed by Santa Clara Residents. Now is the time for voters to have another opportunity at the ballot box to decide and further improve the office of Santa Clara Police Chief.

Please carefully review the four studies and conclusions above. For your convenience of printing hard copies or saving them to your computers, I've attached PDF copies of the four studies to this email.

Regards,

Garrett Bondaug

Attachment 1 – Don't Elect Me – 2018 Tomberlin, Univ. Virginia.pdf

Attachment 2 – CBS – Most American think Changes to Policing are Necessary.pdf

Attachment 3 – BGSU – Politics and Law Enforcement.pdf

Attachment 4 – Biagini 11Aug23 – Commissions & Studies Reference.pdf

Attachment 5 – Harvard – Zoorob 2019 Theres Hardly a New Sheriff in Town.pdf

Attachment 6 – Biagini 22Aug23 – Commissions & Studies Reference.pdf

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NOTE

“DON’T ELECT ME”: SHERIFFS AND THE NEED FOR REFORM IN COUNTY LAW ENFORCEMENT

*James Tomberlin**

Most state constitutions require that counties have an elected sheriff who serves as the county’s chief law enforcement officer. The sheriff’s office is over a thousand years old and today has strong cultural associations with independence and populism. Ironically, however, the sheriff’s office has not been studied in the legal literature on policing as an entity separate and distinct from municipal police departments. This Note attempts to remedy that deficiency by identifying the unique pathologies of the American sheriff and proposing dramatic reforms to county law enforcement.

Although his elected status creates a perception that the sheriff is a local county officer, this Note argues that this perception is inaccurate because the sheriff is independent of the county and is actually, in many important ways, an agent of the state. The sheriff’s hybrid state-and-local status creates misalignments between different levels of government that obstruct efforts to hold the sheriff accountable.

County law enforcement is in need of reform. This Note argues that elections are not functioning as an effective accountability mechanism and that county government must be given power to act as a check on county law enforcement. This Note further argues that, although the sheriff in his current form is emphatically not the officer for the job, the county is actually the best level of government at which to provide policing. This Note discusses the merits of two models of achieving consolidation of policing to the county level, with insights gleaned from America’s experiences with sheriffs.

* J.D., Expected 2018, University of Virginia School of Law; B.A., 2013, University of California, Santa Barbara. My dearest thanks to Professor Rachel Harmon (who asked me to look into sheriffs when I was her research assistant) and Professor Richard Schragger (who suggested framing the issue as one of conflict between different levels of government)—without them, this Note would not exist. I also would like to thank George Carotenuto, Jeni Popp, and everyone else at the *Virginia Law Review*. All errors are mine; any brilliance is probably Professor Harmon’s or Professor Schragger’s.

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INTRODUCTION

DESPITE the last century being a story of the American sheriff's decline, the office endures both in the real world, as chief law enforcement officer of the county, and in the popular consciousness in a way that contrasts with other ancient offices like the constable. This is true for many reasons: television channels are dedicated to airing classic Western films in which the sheriff, corrupt or heroic, is often at the heart of the story. Though warped in meaning, the term "posse"—originally referring to the sheriff's *posse comitatus*—has entered the popular lexicon, as have expressions like "there's a new sheriff in town."

Sheriffs play a part in current events as well, sometimes in memorable ways: the Los Angeles County Sheriff's Department, upon discovering one of their inmates was a confidential informant for the FBI investigating the sheriff's office, moved the informant from location to location in order to keep him out of contact with his FBI handlers.¹ The Maricopa County Sheriff's Office made its prisoners stay outside in the Arizona desert in a "tent city" where internal temperatures reached upwards of 145 degrees Fahrenheit,² and once paraded prisoners in pink underwear and flip-flops between jail facilities.³ The Milwaukee County Sheriff told county residents in a taxpayer-funded radio spot that calling 911 would not provide help fast enough and their best option was to arm and protect themselves,⁴ and once accused a county executive of suffering from heroin addiction and penis envy.⁵ Two sheriffs sued because they did not want to play even a minor, temporary role in implementing the Brady Act, and won.⁶

¹ Celeste Fremon, *The Downfall of Sheriff Baca*, L.A. Mag. (May 14, 2015), <http://www.lamag.com/longform/downfall/> [https://perma.cc/4VB3-GC4B].

² Eugene Scott, *Temperatures Rise to 145 Inside Tent City*, Ariz. Republic (July 3, 2011), <http://archive.azcentral.com/arizonarepublic/local/articles/20110703tent-city-temperatures-rise-145.html> [https://perma.cc/GE8A-XHNE].

³ Randy James, *Sheriff Joe Arpaio*, Time (Oct. 13, 2009), <http://content.time.com/time/nation/article/0,8599,1929920,00.html>.

⁴ Tyler Maas, *Milwaukee's Shoot-from-the-Hip Sheriff*, Daily Beast (Oct. 31, 2015), <http://www.thedailybeast.com/articles/2015/10/31/milwaukee-s-shoot-from-the-hip-sheriff.html> [https://perma.cc/G6RM-RPLP].

⁵ Maurice Chammah, *American Sheriff*, The Atlantic (May 5, 2016), <https://www.theatlantic.com/politics/archive/2016/05/american-sheriff/481131/> [https://perma.cc/G3UC-FMGQ].

⁶ *Printz v. United States*, 521 U.S. 898 (1997).

In the popular consciousness, the sheriff represents something unique and different from the police officer or police chief. It is ironic then that within policing scholarship, the county sheriff does not have an identity separate and distinct from other local law enforcement officers. Professors David N. Falcone and L. Edward Wells summarize:

[D]iscussion of policing is generally approached as “all of one cloth,” despite significant variations in the types and locations of agencies where it is carried out. Distinctions are sometimes noted between public and private policing, and between federal, state and local policing. However, a general proposition seems to be that: at its core, policing is policing . . . and the prototype for this activity is the modern city police department.⁷

This Note attempts to begin remedying this deficiency in policing scholarship. Part I will discuss the history of the sheriff. Part II will identify some vestiges of the ancient sheriff that remain with the office today and are dangerously anachronistic. Part III will argue that sheriffs, though perceived as local county officers, are in fact independent of the county and are, in many important ways, agents of the state. Part III will also discuss misalignments that the sheriff’s hybrid state-and-local status creates between different levels of government, arguing that these problems do not stem from there being too much local control of the office, but from there not being enough. Part IV will argue for dramatic institutional reforms to county law enforcement, chief among them that county governments be given more control over county agencies. This Part will further argue that, although the sheriff’s office as it currently exists is in urgent need of reform, the county represents the best level of government at which to provide policing and that America’s experiences with sheriffs shed light on what consolidated county policing should look like. This Part will discuss the merits of two models of consolidation and argue that state law should define the relationship between counties and municipalities to maximize local accountability.

⁷David N. Falcone & L. Edward Wells, *The County Sheriff as a Distinctive Policing Modality*, 14 *Am. J. Police* 123, 123 (1995).

I. THE HISTORY OF THE SHERIFF

The sheriff is an ancient office that has undergone much change from its origins in pre-Norman Conquest England (the name comes from “shire-reeve,” essentially meaning protector of the shire or county⁸), to the American colonies, and up to today. The following is a rough sketch of the office’s history, with emphasis given to the institutional features and changes most relevant to accountability.

A. England

Historians generally place the creation of the sheriff’s office in the ninth century.⁹ The height of the sheriff’s powers was between the eleventh and thirteenth centuries,¹⁰ when his duties included law enforcement—he controlled the local military and could summon the *posse comitatus* (a force comprising all able-bodied citizens that aided in law enforcement)¹¹—tax collection, execution of writs, the “apprehension and custody of prisoners,”¹² and holding shire court, which had criminal and civil jurisdiction over pleas of the Crown.¹³ One historian referred to the office during this period as “a regional dictator with true executive authority.”¹⁴

⁸ William L. Murfree, Sr., *A Treatise on the Law of Sheriffs and Other Ministerial Officers* § 1a n.2 (2d ed. 1890).

⁹ *Id.* §§ 1, 1a (discussing the sheriff’s origins); see also David B. Kopel, *The Posse Comitatus and the Office of Sheriff: Armed Citizens Summoned to the Aid of Law Enforcement*, 104 *J. Crim. L. & Criminology* 761, 769–70 (2015) (reviewing the historical scholarship).

¹⁰ Compare Mitchel P. Roth, *Sheriff*, *Historical Dictionary of Law Enforcement* 320 (2001) (“[T]he sheriff’s powers peaked during the reign of King John in the early thirteenth century.”), with Richard Gorski, *The Fourteenth-Century Sheriff: English Local Administration in the Late Middle Ages 1–2* (2003) (describing the period immediately following the 1066 Norman Conquest as when the sheriff reached “the height of his influence both personally and administratively”).

¹¹ C.R. Wigan & Hon. Dougall Meston, *Mather on Sheriff and Execution Law* 14 (3d ed., reprinted 1990) (1935).

¹² *Id.* at 2, 14–15.

¹³ *Id.* at 2; Nat’l Sheriffs’ Ass’n, *County Law Enforcement: An Assessment of Capabilities and Needs* 26–27 (1978).

¹⁴ Gorski, *supra* note 10, at 2.

The history of England from the thirteenth century forward is a story of the sheriff gradually losing power.¹⁵ In 1215, Magna Carta stripped the sheriff of judicial authority over all but trivial offenses.¹⁶ In the fourteenth century, the sheriff still wielded broad power, but this was becoming less a function of the sheriff's autonomy and more a function of his being an agent of the King: "[T]he sheriff was an essential keystone in . . . communication[] between the localities and the apparatus of central government [T]he sheriff was the conspicuous instrument of royal will."¹⁷ The sheriff also lost power to newly created county officers like the justice of the peace, which took over all of the sheriff's remaining judicial authority in the fifteenth century.¹⁸

By the seventeenth century, the sheriff served "as the executive official of the courts, as a principal medium of communication between the central government and the county, and as a conservator of the peace," and was "the King's bailiff in enforcing the King's rights, collecting and accounting for his personal revenues, and keeping the county court."¹⁹ The sheriff's office remained prestigious, but was of considerably less importance than in centuries past.²⁰ The financial implications of accepting the office were particularly unattractive: because the system of compensation in medieval England had led some sheriffs to engage in "unjust fines and exactions" to ensure a profit,²¹ by the Tudor period, reforms had left as the sheriff's only compensation "a very small portion of the proceeds" of collecting the King's revenues.²²

¹⁵ See F.W. Maitland, *The Constitutional History of England* 233–34 (1908) ("A very noticeable feature in English history is the decline and fall of the sheriff . . . which goes on continuously for centuries.").

¹⁶ William Sharp McKechnie, *Magna Carta: A Commentary on the Great Charter of King John* 358, 364 (1905) (quoting and discussing Magna Carta of 1215 § 24).

¹⁷ Gorski, *supra* note 10, at 3.

¹⁸ McKechnie, *supra* note 16, at 364; see Lawrence L. Martin, *American County Government: An Historical Perspective*, in *County Governments in an Era of Change* 2 (David R. Berman ed., 1993).

¹⁹ Cyrus Harrelld Karraker, *The Seventeenth-Century Sheriff: A Comparative Study of the Sheriff in England and the Chesapeake Colonies 1607–1689*, at 15 (1930).

²⁰ See Maitland, *supra* note 15, at 234 ("[I]n the seventeenth century . . . [t]he sheriff . . . falls lower and lower in real power: his ceremonial dignity he retains—he is the greatest man in the county . . .").

²¹ McKechnie, *supra* note 16, at 373–74.

²² Irene Gladwin, *The Sheriff: The Man and His Office* 277 (1974).

On the other side of the balance sheet, the sheriff was subject to many fees associated with the office,²³ as well as being personally responsible for paying undersheriffs' salaries and liable for their mistakes.²⁴ For these reasons, the office was expensive to hold and could be difficult to fill.²⁵

The history of the sheriff is also a story of negotiation between centralized power and local power over who would control law enforcement. In fourteenth-century England, for example, it was generally one group of higher government officials who collectively appointed the sheriff of each shire.²⁶ There were, however, two short periods in that century during which shires were allowed to popularly elect their sheriffs, though it is unclear what form these elections took.²⁷ It is clear that counties did not find these elections to be an effective accountability mechanism, and both times England soon returned to the appointment model.²⁸ Instead, counties sought increased qualification requirements for the sheriff and limitations on his power. Magna Carta required that a sheriff "know the law of the realm and mean to observe it well."²⁹ Later, term limits of one year were imposed, as was a requirement that the sheriff be a substantial landholder in his county, to ensure the office would be held by a stakeholder in the community who understood its populace.³⁰

B. America

As the English sheriff was declining in importance, the office found new life in colonial America. Variation in the sheriff's duties and importance tracked the importance of counties generally in the different

²³ See *id.* at 348–55.

²⁴ Maitland, *supra* note 15, at 234.

²⁵ Gladwin, *supra* note 22, at 358–59 (“By the seventeenth century . . . [t]he bankers and merchants who [could afford to be sheriff] . . . became increasingly reluctant to undertake this public duty from which no profit but only financial loss could be expected. [H]eavy fines [were imposed] on those who refused to serve and . . . £100 [was offered] to anyone who would take the office after the selected candidates had refused.”).

²⁶ Gorski, *supra* note 10, at 12.

²⁷ Gladwin, *supra* note 22, at 195; Gorski, *supra* note 10, at 34–35.

²⁸ Gorski, *supra* note 10, at 35–36.

²⁹ Magna Carta of 1215 § 45 (*quoted in* McKechnie, *supra* note 16, at 502).

³⁰ Gorski, *supra* note 10, at 37.

colonies: in the northern colonies, counties were limited to judicial matters; in the Mid-Atlantic colonies, counties shared power with towns; and in the southern colonies, counties represented “the very foundation of local government.”³¹ This meant that in the southern colonies, the sheriff was among the most important officers, whereas the New England region relied more on town constables.³²

The colonial sheriff’s duties included “serv[ing] process papers, maintain[ing] law and order, collect[ing] taxes, and maintain[ing] jails.”³³ Sheriffs never served as judges in America.³⁴ Compensation was much more generous and reliable in America than it had been in England:

[The sheriff] was allowed to retain ten per cent of all revenues he collected and charge a fee for every writ he executed, every arrest he made, every runaway slave he recaptured, every criminal he imprisoned and every time he summoned witnesses and empanelled juries. [Sheriffs would also] tak[e] illegal cuts from the sale of slaves, impos[e] illegal levies and withhold[] money which should have been spent on food for the prisoners in gaol.³⁵

Because the fee system of compensation was associated with such corruption, some colonies began to require that the sheriff be paid a salary,³⁶ though the fee system would endure well into the twentieth century³⁷ and beyond.³⁸

The colonial sheriff remained a royal officer, beholden to the King through his colonial governor and sworn “to serve the King well and truly in his county; to keep the King’s rights; to serve and return the

³¹ J. Edwin Benton, *Counties as Service Delivery Agents: Changing Expectations and Roles* 7 (2002).

³² See Frank Richard Prassel, *The Western Peace Officer: A Legacy of Law and Order* 94 (1972).

³³ Roth, *supra* note 10, at 320.

³⁴ Steve Gullion, *Sheriffs in Search of a Role*, 142 *New L.J.* 1156, 1157 (1992).

³⁵ Gladwin, *supra* note 22, at 384–85.

³⁶ Bradley Chapin, *Criminal Justice in Colonial America, 1606–1660*, at 95–96 (1983).

³⁷ In 1929, a “large majority of American sheriffs [were] still under the fee system.” Raymond Moley, *The Sheriff and the Constable*, 146 *Annals Am. Acad. Pol. & Soc. Sci.* 28, 29 (1929).

³⁸ See *infra* Section II.A.

King's writs honestly"³⁹ Just as appointment of sheriffs in England had fallen to higher government officials,⁴⁰ in the colonies it was the job of the royal colonial governor.⁴¹ While governors usually consulted with a county's justices of the peace, governors sometimes made appointments without regard to county preferences.⁴² Virginia had at least one popular election for its sheriff in 1651, but it seems this was only a temporary departure from the usual method of appointment.⁴³

The office of the sheriff after the Revolutionary War was largely unchanged, but gradually over the nineteenth century, state constitutions were ratified or amended to require that each county have a sheriff and each sheriff be popularly elected,⁴⁴ which thinkers like Thomas Jefferson believed would promote accountability.⁴⁵ The nineteenth century also represents the beginning of the period most associated with the office of the sheriff: the Wild West. Policing during westward expansion began with informal selection of peace officers from among local leaders, who enjoyed great independence in their law enforcement capacity.⁴⁶ As formal governments were established, the West adopted the southern-state model in which counties were important service providers,⁴⁷ making the sheriff one of the most important western officers. The western sheriff's duties ranged from serving process, making arrests, and keeping the peace, to acting as tax collector, assembling a jury, and administering punishment.⁴⁸ The small populaces from which communities had to choose peace officers meant that there were very

³⁹ Karraker, *supra* note 19, at 93–94 (citing the records of three Virginia counties).

⁴⁰ See *supra* note 26 and accompanying text.

⁴¹ See, e.g., Julian P. Boyd, *The Sheriff in Colonial North Carolina*, 5 *N.C. Hist. Rev.* 151, 154 (1928) (describing the practice in North Carolina).

⁴² Karraker, *supra* note 19, at 79.

⁴³ *Id.* at 73–74.

⁴⁴ Martin, *supra* note 18, at 6–7 (discussing many states constitutionally mandating elected county officers between 1816 and 1838).

⁴⁵ Letter from Thomas Jefferson to Samuel Kercheval (July 12, 1816), in 12 *The Works of Thomas Jefferson* 3, 6–10 (Paul Leicester Ford ed., 1905) (arguing that the Virginia Constitution should be amended to provide for elective sheriffs). Virginia eventually amended its constitution to do so in 1851. Va. Const. of 1851, art. VI, § 30.

⁴⁶ Prassel, *supra* note 32, at 30.

⁴⁷ Benton, *supra* note 31, at 7.

⁴⁸ Prassel, *supra* note 32, at 101.

few required qualifications.⁴⁹ Although the sheriff was the chief county law enforcement officer, western counties retained a sense that preservation of the peace was a public duty shared by the community.⁵⁰ This history—along with sheriffs achieving elected, constitutional status—does much to explain how sheriffs, in just one hundred years, went from being royal agents answerable to the Crown to officers perceived as autonomous and locally accountable. Despite the development of professional police departments in the East during the 1830s and 1840s,⁵¹ the sheriff remained the most important western law enforcement officer throughout the nineteenth century.⁵²

While sheriffs across America were increasingly becoming popularly elected officers, their “ultimate strength came to rely not so much upon actual constituents, but those with money and organizations which could consistently produce results at the polls.”⁵³ The desirability of the position came from the promise of power and wealth: in addition to an established salary, a sheriff’s fees “might easily produce tens of thousands of dollars a year even in sparsely populated regions.”⁵⁴ In an extreme case, the sheriff of New York County obtained \$60,000 in 1916 by virtue of the fees, fines, penalties, and permits associated with the office,⁵⁵ equal to over \$1 million today.⁵⁶

C. Today

As the vast lands of the West became developed, the sheriff declined in importance. The duties and powers of sheriffs today vary greatly by region, state, and individual county.⁵⁷ Many sheriffs are now without law enforcement power, either because a county police force has taken over that task or because there are no unincorporated areas in a county

⁴⁹ *Id.* at 30.

⁵⁰ *Id.* at 30–31.

⁵¹ *Id.* at 72.

⁵² *Id.* at 101.

⁵³ *Id.* at 111.

⁵⁴ *Id.* at 114–15.

⁵⁵ Martin, *supra* note 18, at 9.

⁵⁶ CPI Inflation Calculator, Bureau of Labor Statistics, <https://data.bls.gov/cgi-bin/cpicalc.pl> [<https://perma.cc/3G8J-YQNM>].

⁵⁷ Falcone & Wells, *supra* note 7, at 125.

for the sheriff to police.⁵⁸ These sheriffs do some combination of correctional services, such as jail maintenance and prisoner transport, execution of court orders, serving process, courtroom security, seizure of property claimed by the county, collection of fees and taxes, and other administrative tasks.⁵⁹

The decline in importance of sheriffs' offices has not been accompanied by a reduction in their size. As of 2013, there were 3,012 sheriffs' offices employing 352,000 personnel.⁶⁰ Sheriffs' offices employed "34% of all full-time general purpose law enforcement personnel."⁶¹ In 2007, 57% of all sheriffs' deputies were assigned to respond to service calls.⁶² One-quarter of all sheriffs' offices, and nearly half of offices serving a population of over 500,000, regularly patrolled by foot.⁶³ The number of sheriffs' deputies is growing: between 2007 and 2013, the number of full-time sworn officers increased by 10%.⁶⁴ Most states' sheriffs serve four-year terms, though two-, three-, and six-year terms also exist.⁶⁵

There are important differences between sheriffs and police chiefs generally: sheriffs are elected and must therefore campaign for office when opposed; police chiefs are appointed.⁶⁶ The sheriff has authority throughout the county (though often with an understanding that he will not exercise this authority where municipal police departments have jurisdiction); police chiefs have authority in their municipalities.⁶⁷ The sheriff has broad duties, including serving process and maintaining the

⁵⁸ See generally S. Anthony McCann, *County-Wide Law Enforcement: A Report on a Survey of Central Police Services in 97 Urban Counties* (1975) (noting the increasing role of county governments in providing police services).

⁵⁹ Falcone & Wells, *supra* note 7, at 130–31.

⁶⁰ Andrea M. Burch, Bureau of Justice Statistics, *Sheriffs' Office Personnel, 1993–2013*, at 1 (2016).

⁶¹ *Id.*

⁶² Andrea M. Burch, Bureau of Justice Statistics, *Sheriffs' Offices, 2007 - Statistical Tables 3* (2012).

⁶³ *Id.* at 12.

⁶⁴ Burch, *supra* note 60, at 1.

⁶⁵ See Nat'l Sheriffs' Ass'n, Office of Sheriff: State-by-State Elections Information (2015), <https://www.sheriffs.org/sites/default/files/uploads/documents/GovAffairs/State-by-State%20Election%20Chart%20updated%2008.13.15.pdf> [https://perma.cc/8YXW-6FPF].

⁶⁶ Falcone & Wells, *supra* note 7, at 127.

⁶⁷ *Id.* at 129, 134.

county jails, but may not have law enforcement authority; police chiefs are generally limited to law enforcement and patrol.⁶⁸ The office of the sheriff is created by most state constitutions; police departments are authorized by state statutes but created at the local level.⁶⁹

II. LEGACIES OF THE ANCIENT SHERIFF IN AMERICA TODAY

The long history of the sheriff's office and the changes it has undergone during that time are evidenced in the modern American office's variegation and regional quirks: in Colorado, the sheriff is the chief fire warden of the county.⁷⁰ In California, the sheriffs of forty-one out of fifty-eight counties are also responsible for the duties of the coroner, and thus the county's highest law enforcement officer is known as the "Sheriff-Coroner."⁷¹ However, some regional quirks and legacies of bygone eras are more dangerous and suggest the need to reform the sheriff's office.

A. Fees in Alabama

Historian Frank Richard Prassel gives a stark description of jail conditions during westward expansion: "Sadism, personal gain, and simple indifference turned the jails into incredible human jungles of depravity."⁷² A primary reason for these conditions was the fee system: "Collecting fees for care of prisoners from various governmental units, [sheriffs] could then provide food and other items for prisoner use at unconscionable prices. By hiring guards, maintaining buildings, and supplying meals at the lowest possible actual cost, profits could be maximized."⁷³

While there can be no doubt that jail conditions have improved since the mid-nineteenth century, one notable relic of that era remains in

⁶⁸ *Id.* at 130–33.

⁶⁹ *Id.* at 126–27.

⁷⁰ Colo. Rev. Stat. § 30-10-512 (2017).

⁷¹ Sheriff-Coroner, Cal. St. Ass'n of Counties, <http://www.counties.org/county-office/sheriff-coroner> [<https://perma.cc/6JSZ-64NH>] (last visited Jan. 26, 2018); see also Coroner, San Bernardino County Sheriff's Department, <http://cms.sbcounty.gov/sheriff/Divisions/Coroner.aspx> (last visited Jan. 26, 2018).

⁷² Prassel, *supra* note 32, at 123.

⁷³ *Id.*; accord Gladwin, *supra* note 22, at 384–85.

Alabama. Alabama sheriffs are tasked, as is common, with feeding prisoners in the county jails.⁷⁴ The sheriff is not required to make out a daily ration sheet or expense account of food served to prisoners,⁷⁵ and a state statute sets the amount (\$1.75 daily per capita) that the state provides sheriffs to feed prisoners.⁷⁶ The irregularity in Alabama is that the sheriff may keep as personal income any profits gained from providing the jail's daily meals for less than the daily allotted \$1.75 per prisoner.⁷⁷ In 2009, this was the practice in fifty-five of Alabama's sixty-seven counties.⁷⁸

Former Morgan County Sheriff Greg Bartlett, whose annual salary was about \$64,000, was able to accumulate an additional \$212,000 over three years by undercutting the state allotment and pocketing the remainder.⁷⁹ U.S. District Court Judge U. W. Clemon found that Bartlett accomplished this by serving "nutritionally inadequate meals" consisting of portions that were "woefully insufficient to satisfy the normal appetites of adult males," leading to inmates losing up to fifty pounds.⁸⁰ Bartlett once bought half a tractor-trailer full of hotdogs and served them at every meal until they were gone.⁸¹ Judge Clemon stated that the Alabama law was "almost an invitation to criminality" because sheriffs "have a direct pecuniary interest in not feeding inmates."⁸² This

⁷⁴ Ala. Code § 14-6-40 (2015) (duty to feed prisoners).

⁷⁵ Id. § 14-6-41.

⁷⁶ Id. § 14-6-42.

⁷⁷ Id. § 36-22-17 (explaining that sheriffs are entitled to keep and retain "the allowances and amounts received for feeding prisoners" unless the county passes a resolution to the contrary); Ala. Att'y Gen. Op. 2008-061, at 5 (Mar. 17, 2008) ("[T]he sheriff may retain any surplus in the allowances as personal income.").

⁷⁸ Associated Press, *Sheriff Jailed as Inmates Claim Lack of Food*, NBC News (Jan. 7, 2009), http://www.nbcnews.com/id/28546669/ns/us_news-crime_and_courts/t/sheriff-jailed-inmates-claim-lack-food/ [https://perma.cc/TYC3-3HAS].

⁷⁹ Adam Nossiter, *As His Inmates Grew Thinner, a Sheriff's Wallet Grew Fatter*, N.Y. Times (Jan. 8, 2009), <http://www.nytimes.com/2009/01/09/us/09sheriff.html?mcubz=0>.

⁸⁰ Amended Findings of Fact on Contempt Issue, *Maynor v. Morgan County*, No. 5:01-cv-00851-UWC, 2-3 (N.D. Ala. Jan. 9, 2009) (detailing typical meals, such as a lunch of "either two peanut butter or baloney sandwiches (with a small amount of peanut butter or an exceedingly thin slice of baloney between the two slices of white bread), a small-sized bag of corn chips, and flavored water or unsweetened tea").

⁸¹ Id. at 4.

⁸² Nossiter, *supra* note 79.

monetary incentive likely explains why a Choctaw County Sheriff served his inmates “uninspected beef . . . from cows killed on the highway and uninspected deer killed in hunting accidents or killed on the highway.”⁸³

Etowah County Administrator Patrick Simms believed this was an issue that needed investigation, but concluded, “It’s something that probably needs to be addressed at the state or federal level. . . . Local government hands are tied.”⁸⁴

B. The Posse Comitatus in Colorado

While the phrase “posse comitatus” or “sheriff’s posse” likely conjures up images of the Old West, the sheriff’s power to summon all able-bodied citizens of the county to aid in law enforcement goes back roughly as far as the office itself.⁸⁵ Over a millennium later, the posse still exists in substantial form in Colorado.⁸⁶ Seventeen county sheriffs in Colorado maintain organized posses of citizen volunteers.⁸⁷ These posse members may carry their personal firearms⁸⁸ and assist the sheriff with tasks ranging from security at county events, to hostage situations and wildfires, to pursuing fugitives like the infamous serial killer Ted Bundy.⁸⁹ While at least minor training is given to organized volunteer posses, lone officers sometimes enlist civilians ad hoc to use their personal firearms to provide backup for the officer during situations involving combative suspects, felony stops, and in-progress crimes.⁹⁰

Even organized posses, which generally receive some firearms training from the sheriff’s office, do not have to complete the state’s

⁸³ *Nicholson v. Choctaw County*, 498 F. Supp. 295, 303 (S.D. Ala. 1980).

⁸⁴ Sheryl Marsh, *Get Rich or Feed Inmates?*, *Decatur Daily News* (Apr. 30, 2006), <http://legacy.decaturdaily.com/decaturdaily/news/060430/sheriffs.shtml>.

⁸⁵ David B. Kopel, *The Posse Comitatus and the Office of Sheriff: Armed Citizens Summoned to the Aid of Law Enforcement*, 104 *J. Crim. L. & Criminology* 761, 763 (2015).

⁸⁶ *Id.* at 764.

⁸⁷ *Id.* at 810.

⁸⁸ *Id.* at 814–16 (describing a manhunt in Hinsdale County for which the firearms and magazines “ran the gamut of nearly everything available at the time,” and a manhunt in Rio Blanco County for which volunteers carried “Glock .40 handguns, AR-15 rifles, shotguns, and perhaps other arms”).

⁸⁹ *Id.* at 811–12.

⁹⁰ *Id.* at 817 (discussing the Morgan County Sheriff’s Office).

peace officer standards and training commission certification required of other law enforcement officers.⁹¹ This means that civilians who regularly assist the sheriff in “searches for escaped inmates, fugitives, or missing persons; with watching inmates; in searches and in the service of search warrants; in a hostage situation; in drug surveillance of a house; and in guarding the home of a teacher who had received death threats”⁹² do so without any of the training in law enforcement ethics, victims’ rights, or risk assessment that all other Colorado law enforcement officers must receive.⁹³ While the civilian posse may be useful in some situations,⁹⁴ having armed civilians engage in law enforcement activities without the training required of law enforcement officers is disconcerting in light of the general consensus about the importance of training.⁹⁵

C. The “Constitutional” Sheriff

The history and elected status of the sheriff’s office also led some sheriffs to believe they possess special duties and powers.⁹⁶ Fringe groups emphasize the role of the sheriff and his supremacy, believing that in any given county, no state or federal official’s interpretation of state or federal law is superior to that of the local sheriff.⁹⁷ A Florida sheriff who claimed that the Second Amendment compelled him to release a man arrested on gun charges is an example of this

⁹¹ See, e.g., *id.* at 819 (discussing the Custer County Sheriff’s Office).

⁹² *Id.*

⁹³ See Colo. Office of Attorney Gen., Colorado Peace Officer Standards and Training, Basic Academic Training Program (2015), https://www.coloradopost.gov/sites/default/files/post/ACADEMY/Basic_Academic_Training_Program.pdf [<https://perma.cc/33G4-T3JB>].

⁹⁴ See Kopel, *supra* note 85, at 812–17 (arguing that posses have been helpful in emergencies).

⁹⁵ See, e.g., Rachel A. Harmon, The Problem of Policing, 110 Mich. L. Rev. 761, 795 (2012) (“Experts largely agree about the reforms departments should undertake to prevent misconduct. The best departments . . . require substantial initial and ongoing training.”).

⁹⁶ See generally Jonathon Thompson, The Rise of the Sagebrush Sheriffs, High Country News (Feb. 2, 2016), <http://www.hcn.org/issues/48.2/the-rise-of-the-sagebrush-sheriffs> (discussing the constitutional sheriff movement); Julia Harte & R. Jeffrey Smith, The Army to Set Our Nation Free, Ctr. for Pub. Integrity (Apr. 18, 2016), <https://www.publicintegrity.org/2016/04/18/19568/army-set-our-nation-free> [<https://perma.cc/FL6X-9NDX>] (same).

⁹⁷ Thompson, *supra* note 96.

phenomenon.⁹⁸ Nevada cattle rancher Cliven Bundy invoked the idea of sheriff supremacy when he directed his rebellious message—that the federal officials seeking to gather his cattle had to be “disarm[ed]”—at “every county sheriff in the United States.”⁹⁹

Former Arizona Sheriff Richard Mack,¹⁰⁰ who leads one such fringe group, the Constitutional Sheriffs, once stated, “[W]hen you have no place else to go, when all the courts are against you, all the legislators are against you, where else do you go? I believe to the local county sheriff . . . and if that means standing against the federal government, then so damn be it.”¹⁰¹ Waxing Thoreauvian, Mack analogizes the constitutional sheriff’s civil disobedience in refusing to enforce gun laws to a segregation-era law enforcement officer refusing to remove Rosa Parks from her bus seat or a Nazi soldier refusing to commit genocide.¹⁰² Daryl Johnson, the lead researcher of a Department of Homeland Security (“DHS”) report on right-wing extremism and an expert on domestic extremism, declared the Constitutional Sheriffs and other such groups “the biggest issue” in domestic extremism.¹⁰³ Mack claims his organization has about 4,500 dues-paying members, including two hundred sheriffs, and that the organization has trained hundreds more in its principles.¹⁰⁴

⁹⁸ Bill Cotterell, *Jury Acquits Florida Sheriff Who Freed Gun-Toting Man*, Reuters (Oct. 31, 2013), <http://www.reuters.com/article/us-usa-florida-guns/jury-acquits-florida-sheriff-who-freed-gun-toting-man-idUSBRE99U13320131031> [<https://perma.cc/HRA3-5DB7>].

⁹⁹ Dylan Scott, *Why Bundy Ranch Thinks America’s Sheriffs Can Disarm the Feds*, Talking Points Memo (Apr. 15, 2014), <http://talkingpointsmemo.com/muckraker/bundy-ranch-constitutional-sheriffs-oath-keepers> [<https://perma.cc/6UQJ-C5JF>].

¹⁰⁰ Sheriff Mack was one of the plaintiffs in *Printz v. United States*, 521 U.S. 898, 904 (1997).

¹⁰¹ Tom Jackman, *National Sheriffs’ Group, Opposed to Federal Laws on Guns and Taxes, Calls for Defiance*, Wash. Post (Apr. 28, 2016), https://www.washingtonpost.com/news/true-crime/wp/2016/04/28/national-group-of-sheriffs-opposed-to-federal-government-overreach-gains-size-momentum/?utm_term=.9340d17645a2 [<https://perma.cc/4ULZ-JRJ8>].

¹⁰² *Id.*

¹⁰³ Alice Speri, *The FBI Has Quietly Investigated White Supremacist Infiltration of Law Enforcement*, Intercept (Jan. 31, 2017), <https://theintercept.com/2017/01/31/the-fbi-has-quietly-investigated-white-supremacist-infiltration-of-law-enforcement/> [<https://perma.cc/9Z6C-5W4B>].

¹⁰⁴ Thompson, *supra* note 96.

III. COUNTY/STATE & COUNTY/CITY MISALIGNMENT

The history and laws around the sheriff also create important problems of misalignment between the county and the state, and between the county and incorporated municipalities. These problems illustrate the need for reform of law enforcement at the county level.

A. County/State Misalignment

The paradox of the contemporary sheriff is that an office which was historically the agent of the King came to be seen as a locally accountable, autonomous agent, despite still being in many important ways an agent of the state rather than the county.¹⁰⁵ While local elections do allow county citizens, in theory, to hold a sheriff accountable by voting him out of office, in practice, elections do not constitute an effective local check on the sheriff for a number of reasons that are discussed in Section IV.A. Moreover, the sheriff's hybrid state-and-local status insulates him from regulation by county government, by the government of any cities the sheriff may police, and sometimes even by state government.¹⁰⁶

As discussed above, most states create the sheriff's office in their state constitutions.¹⁰⁷ Where state statutes *allow* a municipality to create a local police department, state constitutions *require* that every county provide for a sheriff.¹⁰⁸ This might be called an unfunded mandate. Even more concerning is the effect this arrangement has on local accountability. Where cities have two primary checks on their police chiefs—namely, (1) hiring and firing, and (2) budgeting and the ability to defund—county governments generally lack these checks vis-à-vis the sheriff. Contrary to the perception of the sheriff as an officer of the county accountable to county citizens—subject, perhaps, to too much local control—the sheriff's institutional features actually insulate him almost entirely from attempts by local officials to hold him accountable.

¹⁰⁵ Murfree, *supra* note 8, § 1a (“[The sheriff] is a State officer, whose jurisdiction is ordinarily bounded by his own county.”).

¹⁰⁶ *Id.* § 48 (“[W]here the office of sheriff is a constitutional office, it is not competent for the legislature to diminish his official powers, or to transfer to other officers, the duties or emoluments which properly pertain to his office.”).

¹⁰⁷ See *supra* note 69 and accompanying text.

¹⁰⁸ See *id.*

Thus, the problem is not that there is too much control over the sheriff at the local level, but not enough.

1. Hiring and Firing

While police chiefs generally serve at the pleasure of the politicians who appoint them, the constitutional, elected status of sheriffs prevents local officials from removing them from office. Some states allow the governor, state attorney general, or even a county prosecutor to bring proceedings against the sheriff for suspension or removal, but this is generally limited to situations of malfeasance, nonfeasance, or the failure to enforce certain laws.¹⁰⁹ This does not allow for a county to replace a sheriff due to overly aggressive enforcement of certain crimes against certain communities or other policies that are legal but contrary to the policy goals of the county.

a. Interim Appointments of Sheriffs by the State Governor

An easy to overlook but fundamental aspect of the sheriff's state-local hybridity related to hiring and firing is what occurs when there is a vacancy in the sheriff's office. In thirteen states,¹¹⁰ it falls to the governor to appoint a new sheriff when a vacancy occurs.¹¹¹ Though detailed empirical data are lacking, the incumbency advantage that exists in local electoral races generally exists in sheriffs' races too,¹¹² which suggests that appointment will result in a substantial boost to the appointee in the next election. Thus, though the governor is responsible

¹⁰⁹ See, e.g., Fla. Const. art. IV, § 7(a) (“[T]he governor may suspend from office . . . any county officer, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony, and may fill the office by appointment for the period of suspension.”); *State ex rel. Hatton v. Joughin*, 138 So. 392, 394 (Fla. 1931) (holding that the Governor and State Senate decide whether to remove the sheriff from office).

¹¹⁰ See Nat’l Sheriffs’ Ass’n, *supra* note 65.

¹¹¹ See, e.g., Ala. Code § 36-9-17 (2013) (“Vacancies in all state, county or municipal offices shall be filled by appointment of the Governor for the unexpired term of such office, unless otherwise provided by law.”).

¹¹² See Victor S. DeSantis & Tari Renner, *Governing the County: Authority, Structure, and Elections*, in *County Governments in an Era of Change* 22 (David R. Berman ed., 1993) (“[T]hese [elected county] executive officials typically operate in a political climate with a low degree of public awareness or scrutiny and may be reelected routinely with little or no serious competition.”).

only for temporary hiring in the form of filling vacancies, this is likely to become a permanent hiring if the appointee can ride the incumbency advantage to victory.

b. The Inability of Counties to Regulate the Selection of Sheriff with Term Limits

Nor are counties always able to regulate the selection of the sheriff through procedural means like term limits. In Los Angeles County, a lawsuit was brought against the county's supervisors seeking to get a measure on the ballot asking whether to impose term limits on supervisors; the suit was settled with an agreement that the ballot would include both that measure and a second measure asking whether to limit the terms of all elected county officials, including the sheriff.¹¹³ The background was a series of disputes between Sheriff Lee Baca and the supervisors concerning the sheriff exceeding his budget and the reported mistreatment of the mentally ill in a county jail.¹¹⁴ In 2002, county voters passed both ballot measures, but Sheriff Baca sued, and a court nullified the result with respect to the sheriff.¹¹⁵ The basis for this holding was case law establishing that a county government's power is limited to what is granted in the state constitution.¹¹⁶ California's constitution only allows the county government to provide for elected sheriffs' "appointment, compensation, terms and removal,"¹¹⁷ and California case law interpreted "terms" to refer to the singular prescribed period for which an officer is elected, rather than an officer's incumbency or tenure.¹¹⁸ As a result, enacting term limits on sheriffs was held to be tantamount to enacting a "qualifications" requirement, which the California constitution prohibited.¹¹⁹ The outcome of the suit was

¹¹³ Nicholas Riccardi, *Sheriff Baca Sues to Halt Vote on Term Limits*, L.A. Times (Oct. 23, 2001), <http://articles.latimes.com/2001/oct/23/local/me-60570> [<https://perma.cc/BY8R-AF4C>].

¹¹⁴ *Id.*

¹¹⁵ Jack Leonard, *Baca Wins His Battle Against Term Limits*, L.A. Times (Nov. 11, 2004), <http://articles.latimes.com/2004/nov/11/local/me-limits11> [<https://perma.cc/C9DE-DTYP>].

¹¹⁶ See 86 Cal. Att'y Gen. Op. No. 03-409, at 128 (2003) (discussing the legal issues involved in the case).

¹¹⁷ Cal. Const. art. XI, § 4(c).

¹¹⁸ *Younger v. Bd. of Supervisors*, 93 Cal. App. 3d 864, 871 (1979).

¹¹⁹ 86 Cal. Att'y Gen. Op. No. 03-409, at 129-30; Leonard, *supra* note 115.

that Sheriff Baca had no term limits, but the L.A. County supervisors did.¹²⁰ The *Los Angeles Times* editorial board asked in frustration, “If the board [of supervisors] can’t order the sheriff to do (or not do) anything, what’s the use of appointing someone to investigate problems in [Sheriff Baca’s] department and report on them to the board?”¹²¹

This episode illustrates the vast difference in local control over sheriffs and police chiefs. Because police departments are created by municipalities (as permitted by state law), nothing would have prevented the City of Los Angeles from imposing term limits on a police chief. And because police chiefs serve at the pleasure of local officials, unless generally applicable employment or constitutional law forbids it, a city council can fire a police chief at will for reasons as vague as a “lack of confidence” in the chief¹²² or the chief’s lack of leadership.¹²³ With respect to the sheriff, however, the office’s hybrid state-and-local status means that once a sheriff is elected, he is insulated in all but the most extreme circumstances from county attempts to check his power. The promise of local accountability that led Thomas Jefferson to support making the sheriff an elective office proved to be a hollow one in Los Angeles County: it was not until a much larger scandal broke—one that would ultimately result in Baca being convicted of perjury and obstruction of justice¹²⁴—that Baca resigned as sheriff.¹²⁵

¹²⁰ Editorial, *The Untouchable Sheriff?*, *L.A. Times* (Jan. 2, 2014), <http://www.latimes.com/opinion/editorials/la-ed-sheriff-commission-20140102-story.html> [<https://perma.cc/4CAQ-ZLT4>].

¹²¹ *Id.*

¹²² Domingo Ramirez, Jr., *Blue Mound Police Chief Fired over ‘Lack of Confidence,’* *Star-Telegram* (Nov. 30, 2016), <http://www.star-telegram.com/news/local/community/fort-worth/article117938618.html> [<https://perma.cc/CW3B-ANBT>].

¹²³ Patrice Clark, *Moss Point Police Chief Fired for Lack of Leadership*, *WLOX* (2011), <http://www.wlox.com/story/14184927/moss-point-police-chief-fired-for-lack-of-leadership>.

¹²⁴ Joel Rubin & Victoria Kim, *Former L.A. County Sheriff Lee Baca Found Guilty on Obstruction of Justice and Other Charges*, *L.A. Times* (Mar. 15, 2017), <http://www.latimes.com/local/lanow/la-me-ln-baca-verdict-20170314-story.html> [<https://perma.cc/JM4Y-N54G>].

¹²⁵ See *supra* note 1 and accompanying text.

2. *Budgeting and Defunding*

As with hiring and firing, the budgetary check that local entities have on police departments cannot be exercised in the same way on sheriffs' offices. As Professor Rachel Harmon explains with respect to police departments:

Overwhelmingly, police department funds come from local governments, and policing consumes a large part of municipal budgets. Those budgets provide a crucial form of political control over police departments

* * *

When a chief proposes a budget, he must specify and justify his goals, his planned programs and activities, and the resources those activities require. This process gives local government officials and voters an opportunity to weigh in on both the means and ends of law enforcement and it provides a standard by which they can later measure the department's performance. The budgeting process therefore not only allocates scarce resources, it provides an important mechanism for local governments to reject law enforcement activities that—although lawful—are inconsistent with local interest and priorities.¹²⁶

In contrast to this robust budgetary check that municipal governments possess, state law severely limits the ability of county governments to influence the sheriff's actions through their budgetary power. This section discusses Georgia and Florida because there has been substantial litigation regarding county budgets in those states. They are not unique, however. Limits on a county government's budgetary power are inherent in the sheriff's constitutional status: no county action may prevent the sheriff's execution of statutory or constitutional mandates,¹²⁷ and

¹²⁶ Rachel A. Harmon, *Federal Programs and the Real Costs of Policing*, 90 N.Y.U. L. Rev. 870, 948–49 (2015).

¹²⁷ See *Cahalan v. Wayne Cty. Bd. of Comm'rs*, 286 N.W.2d 62, 66 (Mich. Ct. App. 1979) (“Where the Legislature has statutorily imposed on the county executive officers various duties and obligations, the county boards of commissioners must budget sums sufficient to allow the executive officers to carry out their duties and obligations.”); *Wis. Prof'l Police Ass'n/Law Enf't Emp. Relations Div. v. Dane County*, 439 N.W.2d 625, 629–30 (Wis. Ct. App. 1989) (“[I]t would be destructive of government itself if a public governing body,

budgetary restrictions are often seen as impermissible attempts by county government to control the sheriff's operations.¹²⁸

a. Georgia

The difference between the county's budgetary power over the sheriff and the city's budgetary power over the police department is stark in Georgia, as the Eleventh Circuit's description of the relationship between Clinch County and its sheriff illustrates:

Clinch County's financial control [over the sheriff] is attenuated because (a) the State mandates Sheriff Peterson's minimum salary . . . and (b) Clinch County sets the total budget but cannot dictate how Sheriff Peterson spends it. The Georgia Supreme Court has held that counties "must provide reasonably sufficient funds to allow the sheriff to discharge his legal duties," and that "the county commission may not dictate to the sheriff how that budget will be spent in the exercise of his duties."

* * *

Payment of Sheriff Peterson's budget, when required by the State, does not establish any control by Clinch County over his force policy at the jail or how he trains and disciplines deputies.¹²⁹

Where a county disapproves of a sheriff's practices, the county can defund the sheriff, but not to the point that the sheriff can no longer perform his duties. Nor can funding be conditioned on the sheriff performing his duties in a certain way. Essentially, the county must give the sheriff a blank check for a reasonably sufficient amount, a far cry from what is required of the police chief who must specify and justify goals that comport with the policy objectives of local officials.

through the exercise of its budgetary and fiscal controls, could render impossible the performance of the duties which devolve upon a constitutional officer . . .").

¹²⁸ See, e.g., Ill. Att'y Gen. Op. No. 84-003, at 9, 12 (1984) ("[W]hile the county board has the power to determine the amount of county funds that may be expended, the county board cannot use its financial and budgetary powers to regulate, control, or otherwise interfere in the internal operations of the various county offices [including the sheriff's office].").

¹²⁹ *Manders v. Lee*, 338 F.3d 1304, 1323-24 (11th Cir. 2003) (citations omitted).

b. Florida

The budgetary check counties have on sheriffs in Florida is more substantial, but still much weaker than that which cities can exert on their police departments. A Florida statute outlines the process by which the sheriff, in making a budget proposal, must itemize proposed expenditures into six budget items and swear that they are reasonable and necessary.¹³⁰ The board of county commissioners or the budget commission after a hearing may “amend, modify, increase, or reduce” any of the sheriff’s six general budget items.¹³¹ If the sheriff disagrees with any such change, he has the right to appeal it by petition to the Executive Office of the Governor.¹³² This is one of the clearest examples of the sheriff being a quasi-state officer: the county may try to rein the sheriff in, but he possesses a direct line to the highest authority in the state.

Reducing one of the sheriff’s six budget items, moreover, bears little resemblance to the fine-tuned regulation that Professor Harmon describes for police departments. The Florida Supreme Court in *Weitzenfeld v. Dierks* held:

[T]he internal operation of the sheriff’s office and the allocation of appropriated monies within the six items of the budget is a function which belongs uniquely to the sheriff To hold otherwise would do irreparable harm to the integrity of a constitutionally created office

* * *

Accordingly, F.S. Section 30.49(4) empowers the county to make lump sum reductions or additions of monies allocated to any of the six budget items; it does not, however, authorize an intrusion into the functions which are necessarily within the purview of the office of sheriff.¹³³

¹³⁰ Fla. Stat. § 30.49(1)–(2) (2016).

¹³¹ *Id.* at § 30.49(4). A commission or board may demand information about specific expenditures within a general budget item, but may not “amend, modify, increase, or reduce” these specific expenditures. *Id.* at § 30.49(3); see also *Weitzenfeld v. Dierks*, 312 So. 2d 194, 196 (Fla. 1975) (interpreting the statute).

¹³² Fla. Stat. § 30.49(4)–(5).

¹³³ 312 So. 2d 194, 196 (Fla. 1975).

The outcome of the case was to deny Manatee County the ability to stop its sheriff from using money allocated for “Expenses Other than Salaries” to create a helicopter program.¹³⁴ In comparison, if a police chief proposed using funds for a helicopter program, the city could deny him those funds and even fire him if the city believed his use of funds reflected poor judgment.¹³⁵ No such options were available to the Manatee County Commission.

3. Section 1983 Suits

Another area in which the state-local hybridity of the sheriff creates a disparity between the treatment of the county sheriff and the local police chief is in civil rights suits under 42 U.S.C. § 1983. In *McMillian v. Monroe County*, the Supreme Court created uncertainty about whether sheriffs act as final policymaker for the county or the state.¹³⁶ This is important because if the sheriff acts unconstitutionally in his capacity as final policymaker for the county, the county may be liable under § 1983,¹³⁷ even if the sheriff himself is entitled to qualified immunity.¹³⁸ However, if the sheriff acts for the state, there can be no county liability—because the sheriff did not act for the county—nor can the state be held liable because neither a state nor its officials acting in their official capacities are suable “persons” under § 1983.¹³⁹

In determining that the sheriff in *McMillian* was acting as a final policymaker for the state, the Court emphasized a 1901 amendment to Alabama’s constitution allowing the governor to commence impeachment proceedings against sheriffs and moving proceedings from

¹³⁴ Id. at 195–96.

¹³⁵ See, e.g., B.J. Pollock, Needville Police Chief Fired, Fort Bend Herald (Apr. 1, 2005), http://www.fbherald.com/needville-police-chief-fired/article_a2314801-4722-53c9-bd64-279ea6736ec4.html [<https://perma.cc/E3FM-DZMF>].

¹³⁶ 520 U.S. 781, 791 (1997).

¹³⁷ *Pembaur v. City of Cincinnati*, 475 U.S. 469, 485 (1986).

¹³⁸ See, e.g., *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982) (holding that executive officers are immune from damages actions under § 1983 if their “conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known”); *Owen v. City of Independence*, 445 U.S. 622, 657 (1980) (holding that “municipalities have no immunity from damages liability flowing from their constitutional violations”).

¹³⁹ *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 71 (1989).

the county to the state supreme court, an amendment aimed at stopping lynch mobs from committing crimes with impunity.¹⁴⁰ As Professor Karen Blum points out, “[t]he irony is that a restructuring . . . intended to make sheriffs more accountable ultimately resulted in a Supreme Court decision sheltering the sheriff’s office from damages liability.”¹⁴¹

Since *McMillian*, courts have become fragmented.¹⁴² Sheriffs have been found to act as final policymakers for the state in Georgia,¹⁴³ but courts have found that sheriffs doing the same activities acted for the county in Wisconsin¹⁴⁴ and Florida.¹⁴⁵ California’s sheriffs were found to be acting for the county when the issue came before the Ninth Circuit, only for the California Supreme Court to hold later that they acted for the state.¹⁴⁶ While this area of law is unsettled and likely to change, it provides another example of the hybrid state-and-local status of the sheriff that hampers accountability: if a sheriff’s unconstitutional action does not result in any governmental liability, there will not be as much incentive to hold him accountable for such action.

B. County/City Misalignment

There are also misalignments involving the sheriff that occur entirely at the local level between the county and the city. Namely, incorporated municipalities often contract with the sheriff for policing services rather than forming their own police departments, which can leave municipalities with less control over how they are policed.¹⁴⁷ Cities have

¹⁴⁰ 520 U.S. at 787–88.

¹⁴¹ Karen M. Blum, Support Your Local Sheriff: Suing Sheriffs Under § 1983, 34 Stetson L. Rev. 623, 633–34 (2005).

¹⁴² See *id.* 628–29 (identifying post-*McMillian* split in federal courts of appeals and state supreme courts about whether sheriffs act for the state or county and arguing this is the result of lack of guidance from the Court).

¹⁴³ *Manders v. Lee*, 338 F.3d 1304, 1310–11 (11th Cir. 2003).

¹⁴⁴ *Abraham v. Piechowski*, 13 F. Supp. 2d 870, 877–79 (E.D. Wis. 1998).

¹⁴⁵ *Abusaid v. Hillsborough Cty. Bd. of Cty. Comm’rs*, 405 F.3d 1298, 1305 (11th Cir. 2005).

¹⁴⁶ Compare *Brewster v. Shasta County*, 275 F.3d 803, 805 (9th Cir. 2001), with *Venegas v. County of Los Angeles*, 87 P.3d 1, 5, 10 (Cal. 2004).

¹⁴⁷ Of historical intrigue is that this arrangement constitutes a reversal of the interests in medieval England, where “[t]he most coveted privileges [of a borough obtaining the legal rights of self-government] consisted in exemption from the control of the county Sheriff.” *Wigan & Meston*, *supra* note 11, at 18–19.

been contracting with counties for policing services since 1931,¹⁴⁸ and these contracts are widespread: contracting occurs in Arizona, California, Florida, Illinois, Vermont, Washington, and many other states.¹⁴⁹ To illustrate how common this practice is in some states, nearly 30% of municipalities in California contract with the county sheriff for policing services.¹⁵⁰

In theory, these contracts are attractive. A municipality might be able to purchase precisely the quantity and quality of policing that its constituents desire from a more centralized agency, creating economies of scale. When the City of Adelanto, California had a police department, it was plagued with corruption and harassment;¹⁵¹ when the city dissolved the department to contract instead with the sheriff, the city benefitted from the larger sheriff's office's superior equipment, more specialized units, and larger roster from which to call for backup when necessary.¹⁵² These benefits might explain why contract cities in California generally have better clearance rates for violent crimes than do department cities.¹⁵³ These contracts also seem to offer savings to contract cities (though these savings may result from contract costs being passed along to department cities,¹⁵⁴ or from the fact that sheriff's deputies are significantly less likely to collectively bargain than police officers).¹⁵⁵ These contracts have another benefit in that they represent one possible solution to fragmentation—the overabundance of small

¹⁴⁸ Gordon E. Misner, *The Police Service Contract in California: An Instrument of Functional Integration*, 52 *J. Crim. L., Criminology, and Police Sci.* 445, 446 (1961).

¹⁴⁹ Peter J. Nelligan & William Bourns, *Municipal Contracting With County Sheriffs for Police Services in California: Comparison of Cost and Effectiveness*, 14 *Police Q.* 70, 71 (2011).

¹⁵⁰ *Id.* at 72.

¹⁵¹ See Phil Willon, *Police Chief Ousted Amid Debate on Force's Fate*, *L.A. Times* (Oct. 6, 2001), <http://articles.latimes.com/2001/oct/06/local/me-54103> [<https://perma.cc/NV3U-M7B6>].

¹⁵² Gary George, *Morale Improves with Adelanto's Switch to Sheriff*, *Desert Dispatch* (June 16, 2002), <http://archive.desertdispatch.com/2001-2003/102424884395573.html> [<https://perma.cc/6M2M-LQWF>].

¹⁵³ Nelligan & Bourns, *supra* note 149, at 87–89.

¹⁵⁴ See *id.* at 77.

¹⁵⁵ Casey LaFrance & MaCherie Placide, *A Quantitative Analysis of Accountability Indicators in Sheriffs' Offices and Municipal Police Departments*, in 10 *Law Enforcement Executive Forum: Critical Legal Issues in Law Enforcement* 107, 113–14 (2010).

police forces within one geographical area—which is a serious problem in policing today.¹⁵⁶ Contracting is one of two models of consolidation (the other being “coalescence,” where county and city policing agencies merge into one department) that has been suggested to address fragmentation.¹⁵⁷

However, these contracts create some notable problems. A relatively minor example is the inability of such contract cities to file for stimulus packages like the COPS Hiring Recovery Program, which are available only to agencies with primary law enforcement authority.¹⁵⁸ Thus, a sheriff’s office may apply for stimulus funds to be used for additional deputies in a particular contract city; however, the fact that the county as a whole or the sheriff’s office itself is generally doing well financially can preclude a grant of stimulus money even where an individual city faces budgetary issues requiring a reduction in contracted-for law enforcement personnel.¹⁵⁹

More significant to accountability is that contracting for policing with an out-of-town agency runs the risk that those who police a municipality will not be stakeholders in its community. Likewise, the potential for disparities in bargaining power, especially with respect to smaller, poorer municipalities, suggests that by contracting a city might lose some ability to regulate and hold accountable those who police it.¹⁶⁰

These issues came to bear in Maricopa County, Arizona, where the small town of Guadalupe contracts with the Maricopa County Sheriff’s

¹⁵⁶ See Police Exec. Research Forum, *Overcoming the Challenges and Creating a Regional Approach to Policing in St. Louis City and County 2* (2015) (“The fragmentation of policing is inefficient, undermines police operations, and makes it difficult to form effective law enforcement partnerships”); Final Report of the President’s Task Force on 21st Century Policing 29 (2015) (“[S]mall [police] forces often lack the resources for training and equipment accessible to larger departments and often are prevented by municipal boundaries and local custom from combining forces with neighboring agencies.”).

¹⁵⁷ See *infra* Section IV.D for a full discussion of the two models.

¹⁵⁸ See COPS Hiring Program (CHP), Community Oriented Policing Services U.S. Dep’t of Justice, <https://cops.usdoj.gov/default.asp?Item=2367> [<https://perma.cc/3B8F-JBZB>] (last visited Sept. 20, 2017).

¹⁵⁹ See Alfred Lee, *Contract Cities Lose Out after Sheriff’s Department Is Denied Stimulus Funds*, Whittier Daily News (Aug. 8, 2009), <http://www.whittierdailynews.com/general-news/20090808/contract-cities-lose-out-after-sheriffs-department-is-denied-stimulus-funds> [<https://perma.cc/DC9J-R8VP>].

¹⁶⁰ See Nelligan & Bourns, *supra* note 149, at 89–90 (discussing potential negative policy implications of contract policing).

Office for policing services. When Guadalupe found itself in a dispute with Sheriff Joe Arpaio over his controversial immigration sweeps in April 2008, Mayor Rebecca Jimenez confronted Sheriff Arpaio about his acting contrary to the town's wishes; Sheriff Arpaio responded: "If you don't like the way we operate, you get your own police department."¹⁶¹ Mayor Jimenez suggested she would look into doing so, and Sheriff Arpaio raised the stakes two weeks later, stating that he intended to cancel the town's contract.¹⁶² What Mayor Jimenez discovered was that reaching the capacity for the town to police itself would take up to three years and that it would not be possible to contract with the Tempe or Phoenix Police Departments in the meantime.¹⁶³ Instead, Mayor Jimenez was ousted from office, and her replacement was able to convince Sheriff Arpaio to maintain the contract.¹⁶⁴ Sheriff Arpaio claimed that even if Guadalupe stopped contracting with him, he would still have the authority to perform his sweeps within Guadalupe.¹⁶⁵ This anecdote presents a fundamental concern with the contract model: the head of the agency providing the policing is not a stakeholder in the community in the same way that a local police chief would be. Where a police chief works primarily to achieve city policy goals, a sheriff might have separate county policy goals that are contrary to the interests of the city. This problem, combined with the lack of bargaining power of communities like Guadalupe, suggests that these contracts are susceptible to abuses by county sheriffs that local officials will be powerless to stop.

However, one important development in this story is that, while Guadalupe is still under contract with the sheriff's office, the contract

¹⁶¹ Nicholas Riccardi, *Sheriff Riding Out of Town*, L.A. Times (Oct. 13, 2008), <http://articles.latimes.com/2008/oct/13/nation/na-guadalupe13> [https://perma.cc/6CWR-TDLP].

¹⁶² *Id.*

¹⁶³ See J.J. Hensley & Yvonne Wingett, *Maricopa County Set to Cancel Their Policing in Guadalupe*, AZ Central (Sept. 17, 2008), <http://archive.azcentral.com/arizonarepublic/news/articles/2008/09/17/20080917guadalupe0917.html> [https://perma.cc/NP5S-WHSY].

¹⁶⁴ *Sheriff Joe and New Guadalupe Mayor Find Common Ground*, AZ Family (Aug. 21, 2009), <http://www.azfamily.com/story/28304824/sheriff-joe-and-new-guadalupe-mayor-find-common-ground>.

¹⁶⁵ Riccardi, *supra* note 161.

was amended in 2014 with provisions favorable to Guadalupe.¹⁶⁶ One provision states, “As a condition of this contract, the Town of Guadalupe requires that Sheriff’s Office employees assigned to the town receive cultural training unique to the Town’s history and celebrations.”¹⁶⁷ The Town of Guadalupe is to provide curriculum and materials and to “reimburse the Sheriff’s Office the actual one-time cost, if any, to implement the training program.”¹⁶⁸ Most significantly, the Amendment provides:

The Town, Acting through the Town Manager, shall have the right to request in writing that any staff assigned to service within the Town by the Sheriff’s Office be reassigned or otherwise removed from service within the Town. When such request is made, the Sheriff’s Office shall comply as soon as reasonably practical, but in any case within no more than three weeks after such request is made.¹⁶⁹

The addition of these provisions suggest that even smaller, poorer cities may in some cases be able to exercise some degree of bargaining power to ensure that policing conforms to local preferences.

IV. COUNTY LAW ENFORCEMENT IS IN NEED OF DRASTIC REFORM TO PROMOTE ACCOUNTABILITY

Though this Note advocates drastic reform or abolition of the sheriff’s office, it is important not to overstate the issues: it seems that in most counties, sheriffs bravely and ably exercise the declining powers their office affords them. Where sheriffs go very far astray, the electorate may vote the sheriff out of office,¹⁷⁰ sheriffs may be prosecuted and

¹⁶⁶ Agreement for Law Enforcement Services between The Town of Guadalupe and Maricopa County on Behalf of the Sheriff’s Office C-50-12-083-3-00 (Mar. 4, 2014) (on file with the Virginia Law Review Association) [hereinafter *Guadalupe Contract*]; see Megan Cassidy & Michelle Ye Hee Lee, *Guadalupe Seeks Better Relationship with MCSO*, AZ Central (Mar. 2, 2014), <http://www.azcentral.com/story/news/2014/03/03/guadalupe-seeks-better-relationship-with-meso/5963519/> [<https://perma.cc/NWQ8-EK4L>] (discussing the contract provisions).

¹⁶⁷ *Guadalupe Contract*, supra note 166.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ See, e.g., Fernanda Santos, *Sheriff Joe Arpaio Loses Bid for 7th Term in Arizona*, N.Y. Times (Nov. 9, 2016), <https://www.nytimes.com/2016/11/09/us/joe-arpaio-arizona-sheriff.html?mcubz=3>.

convicted of crimes,¹⁷¹ and in many states a sheriff may be removed for malfeasance or nonfeasance through legal proceedings initiated by a county prosecutor, the state attorney general, or the state governor.¹⁷² The county board may have some power over the sheriff, such as the ability to withdraw the traditional offer of free living quarters.¹⁷³ However, what these examples illustrate are the differences in how state law governs the city-police department relationship as compared with the county-sheriff relationship, and the implications these differences have for local accountability. Between the legacies of the ancient sheriff that inexplicably persist and the statutes that prevent county government from acting as a check on the sheriff, it is clear that county law enforcement must be drastically reformed. Certain reforms, like giving the county more control over hiring and budgeting, may be difficult to achieve politically but are relatively easy to formulate; others, like the role county law enforcement should play in addressing the problem of fragmentation, are more complicated—but considering America's experiences with sheriffs provides valuable insights.

A. Elections Are Not an Effective Accountability Mechanism

Any claim that the sheriff is not accountable to his constituents is likely to be met with skepticism: sheriffs, after all, are popularly elected. One might argue that elections are the best system for holding a chief law enforcement officer accountable. Under this system, the voters have a direct say in who polices them and how they are policed, instead of electing a mayor who runs on a platform within which policing is, at best, one of several salient issues. Electing a chief law enforcement officer ensures that policing is a salient issue in every election. This is the attitude many sheriffs take. During a citizens' commission on jail

¹⁷¹ See, e.g., Rubin & Kim, *supra* note 124 (discussing the conviction of Sheriff Baca). It is also worth noting that Sheriff Arpaio was convicted of criminal contempt of court but received a pardon from President Donald Trump less than one month after conviction. See Devlin Barrett & Abby Phillip, Trump Pardons Former Arizona Sheriff Joe Arpaio, *Wash. Post* (Aug. 25, 2017), https://www.washingtonpost.com/world/national-security/trump-pardons-former-arizona-sheriff-joe-arpaio/2017/08/25/afbff4b6-86b1-11e7-961d-2f373b3977ee_story.html?utm_term=.39128c08ba3d [<https://perma.cc/CG7Q-HXYF>].

¹⁷² See *supra* Subsection III.A.1.

¹⁷³ Alvin D. Sokolow, *Legislatures and Legislating in County Government*, in *County Governments in an Era of Change* 29, 39 (David R. Berman ed., 1993).

violence, Los Angeles County Sheriff Lee Baca was asked by a constituent how to hold him accountable for mistreatment of inmates and other misconduct by his office; Sheriff Baca's simple solution: "Don't elect me."¹⁷⁴ This response, which appeals to fundamental democratic principles, also encapsulates the problem of relying solely on elections as an accountability mechanism. Despite the L.A. County Sheriff's Department being the largest in America,¹⁷⁵ "at least since 1932, no incumbent L.A. County sheriff has ever been unseated."¹⁷⁶

L.A. County is not atypical in this regard. In practice, it is evident that accountability through elections is not occurring in a meaningful way. Voter turnout is low in local elections, and appears to be diminishing further.¹⁷⁷ The actions of law enforcement officers involve one-off discretionary decisions made in the course of duty, which are not as visible or easily reviewable as public policy decisions made by politicians.¹⁷⁸ Particularly in rural counties, there is the problem that those most qualified to replace a sitting sheriff are likely to be subordinates of that sheriff and therefore unlikely to be willing to break rank and run against their boss.¹⁷⁹ There is likewise the rubber stamp that voters seem to give incumbents: though definitive data are hard to come by, one policing scholar has estimated that the average sheriff's term is

¹⁷⁴ Editorial, *The Untouchable Sheriff*, supra note 120.

¹⁷⁵ Burch, supra note 62, at 23 (indicating L.A. County Sheriff's Department is the largest by number of full-time sworn personnel).

¹⁷⁶ Editorial, *Don't Run Again, Sheriff Baca*, L.A. Times (Aug. 4, 2013), <http://articles.latimes.com/2013/aug/04/opinion/la-ed-adv-sheriff-20130804> [<https://perma.cc/53FE-GFCL>].

¹⁷⁷ See DeSantis & Renner, supra note 112, at 22 ("[T]hese [elected county] executive officials typically operate in a political climate with a low degree of public awareness or scrutiny and may be reelected routinely with little or no serious competition."); Mike Maciag, *Voter Turnout Plummeting in Local Elections*, *Governing* (October 2014), <http://www.governing.com/topics/politics/gov-voter-turnout-municipal-elections.html> [<https://perma.cc/Q875-H5B7>] (citing a survey of voter turnout in 144 larger cities, which found an average of 26.6% in 2001 and a 2011 average of 21%, as well as statistical evidence that there is a jump in turnout of 18.5% in presidential election years and 8.7% when an election is in November of a midterm election year).

¹⁷⁸ See Albert J. Reiss, Jr., *Police Organization in the Twentieth Century*, 15 *Crime & Just.* 51, 73–75 (1992) (discussing the lack of visibility in discretionary policing decisions).

¹⁷⁹ Thompson, supra note 96; see also *Don't Run Again, Sheriff Baca*, supra note 176.

around twenty-four years.¹⁸⁰ All of this makes clear that elections are not functioning as a dynamic back-and-forth between county voters and the sheriff in which the sheriff is held accountable by being voted out of office.¹⁸¹ Nor do sheriffs interact with the community in the way that their elections might suggest: sheriffs' offices are much less likely to meet with community groups or even seek input from community surveys than are police departments.¹⁸² Absent a system of mandatory voting at the local level and a method by which to ensure that voters are informed of their choices, any reliance on the popular election of sheriffs as a meaningful accountability mechanism is misplaced. H.S. Gilbertson, in one of the most influential books ever written about county governments, identified the problem: "For nearly a century popular government has been galloping down the highway that leads to governmental confusion. Nowhere does the record state that because the people elected long strings of officers, the people therefore *controlled* those officers."¹⁸³ There is the additional problem of campaign finance in sheriff's elections, where large sums of money might come from outside the county to influence the election, further undermining the concept of elections as a pure expression of local choice.¹⁸⁴

¹⁸⁰ Thompson, *supra* note 96; E-mail Correspondence between Author and Casey LaFrance, Associate Professor of Political Science, Western Illinois University (Feb. 21, 2017) (on file with the Virginia Law Review Association) (explaining that his estimate is based on a qualitative study he conducted with sheriffs in Illinois, Iowa, and Wisconsin).

¹⁸¹ Similar findings have been made with elective school boards, which are analogous to sheriffs in that they are in some ways local but in many ways independent of local government. See, e.g., Lydia Segal, *Corruption Moves to the Center: An Analysis of New York's 1996 School Governance Law*, 36 *Harv. J. Legis.* 323, 330–31 (1999) (discussing the failure of elections as an accountability mechanism on New York City school boards).

¹⁸² Thomas Enzo Meloni et al., *Revisiting Quantitative Accountability Indicators in Municipal Police Departments and County Sheriffs' Offices*, 2 *J. Law Enforcement Leadership & Ethics* 56, 64–65 (2015).

¹⁸³ H.S. Gilbertson, *The County: The "Dark Continent" of American Politics* 31 (1917).

¹⁸⁴ See, e.g., Jacques Billeaud, *Voters Oust Sheriff Joe Arpaio after Charge Clouds Campaign*, Associated Press (Nov. 9, 2016), <https://www.apnews.com/d0512742a3284625a7ea68c6b3f5e86c> [<https://perma.cc/TS8K-W78X>] (discussing former Maricopa County Sheriff Joe Arpaio's recent losing campaign for reelection, which brought in \$12.3 million in donations, mostly from out-of-state donors); Scott Dolan, *County Sheriff Calls for Investigation into PAC's Campaign Spending*, *Portland Press Herald* (Jun. 4, 2014), <http://www.pressherald.com/2014/06/04/county-sheriff-calls-for-investigation-into-pacs-campaign-spending/> [<https://perma.cc/5K4L-WGVD>] (discussing a sheriff's race in Maine in

The best arguments for reforming county law enforcement come from those who have done so. During the political battle ultimately resulting in the abolition of the sheriff in Connecticut, Representative Michael P. Lawlor concisely concluded, “[I]t is not a good idea to run a professional agency on a political basis.”¹⁸⁵ In Riley County, Kansas (whose abolition of the sheriff will be discussed in Subsection IV.D.2), there was a similar recognition of the hollowness of elections as an accountability mechanism. Alvan Johnson, who worked in law enforcement in Riley County before and after the abolition of the sheriff and served as director of the consolidated Riley County Police Department for twenty-two years, put it best: “People like their elected officials. But the reality is, you can get rid of a police chief a lot faster than a sheriff.”¹⁸⁶

B. The Urgency of Reform

If one accepts that elections are not a meaningful accountability mechanism for county law enforcement, it quickly becomes clear that there is no reason to maintain the sheriff’s office. It may have made sense at one time to have a chief law enforcement officer who was elected. Likewise, it may have made sense for this office to handle various other duties like prison maintenance, prisoner transport, execution of court process and writs, and courthouse security, at a time when it was unclear who else would perform these duties if not the chief law enforcement officer. It is still essential to provide these services, and there still must be a county law enforcement agency to serve unincorporated municipalities where they exist. However, the twentieth century was a story of policing becoming more professionalized,¹⁸⁷ and

which a Florida company “spent nearly \$100,000 for radio ads and campaign mailings” attacking the incumbent).

¹⁸⁵ Paul Zielbauer, Reinforcement for an Effort to Abolish Sheriff System, N.Y. Times (Mar. 11, 2000), <http://www.nytimes.com/2000/03/11/nyregion/reinforcement-for-an-effort-to-abolish-sheriff-system.html?mcubz=3>.

¹⁸⁶ Scott Roach, Task Force Hears from Former Riley County Chief about Police Consolidation, Emporia Gazette (Jun. 28, 2007), http://www.emporiagazette.com/news/article_3f85f6be-8545-5b76-9244-9859e0d308d2.html [<https://perma.cc/3Z2F-A9UH>]; see also Katherine Wartell, New Center to Honor Johnson’s Decades of Law Enforcement Work, The Manhattan Mercury (Dec. 7, 2012) (discussing Alvan Johnson’s career).

¹⁸⁷ Reiss, *supra* note 178, at 68–72.

counties have increasingly found that a professional, dedicated county police department is a better organization to handle law enforcement than a jack-of-all-trades sheriff.¹⁸⁸

Where a county police department is created and the sheriff is stripped of policing authority, one might argue that it is inconsequential whether the sheriff is elected or appointed, or whether and to what extent the county can hold the sheriff accountable. It is true that the sheriff's institutional pathologies are most concerning in counties where the sheriff engages in policing, but stripping the sheriff of policing authority does not allay all fears of abuses and corruption that a lack of accountability creates. As discussed in the context of Morgan County, Alabama in Section II.A and Los Angeles County, California in Section III.A, mistreatment and abuse of prisoners in county jails remains a major problem. Additionally, over a six-month period in 2016, there were four deaths in the Milwaukee County Jail, which was run by controversial sheriff David Clarke.¹⁸⁹ Among the dead was a mentally ill man, Terrill Thomas, who died of dehydration seven days after jail staff cut off the water to the sink in his cell as a disciplinary measure.¹⁹⁰

The story of how Connecticut came to abolish the sheriff's office illustrates how dangerous the coercive power of the sheriff can be, even where the office is limited to jail, courthouse, and prisoner transport services. During the political battle for a constitutional amendment abolishing the sheriff, the rape of Sandra Caruso provided a graphic example of the human consequences that ineptitude in prisoner transportation can have.¹⁹¹ Caruso was arrested for failure to appear in court on a charge of driving with a suspended license.¹⁹² Unable to post bail, Caruso was driven to the county jail in the back of a sheriff's department van, along with thirteen male convicts, two of whom were

¹⁸⁸ See McCann, *supra* note 58, at 10.

¹⁸⁹ Katie Mettler, In Sheriff David Clarke's Jail, Water Was Kept from Mentally Ill Inmate for 7 Days Before He Died of Dehydration, *Wash. Post* (Apr. 25, 2017), https://www.washingtonpost.com/news/morning-mix/wp/2017/04/25/in-sheriff-david-clarkes-jail-water-kept-from-mentally-ill-inmate-for-7-days-before-he-died-of-dehydration/?utm_term=.7aadf6e388f6 [<https://perma.cc/CTP4-M49Y>].

¹⁹⁰ *Id.*

¹⁹¹ Zielbauer, *supra* note 185.

¹⁹² *Id.*

sex offenders.¹⁹³ During the ride, multiple prisoners brutally raped Caruso, who had been handcuffed and shackled.¹⁹⁴ A partition in the van had been kicked down, and the deputy sheriffs had turned off an intercom that could have alerted them to the rape.¹⁹⁵ This was not a violation of the rules at the time, and the deputies were not disciplined after an internal investigation.¹⁹⁶ Connecticut citizens voted to amend the state constitution to abolish the sheriff's office in 2000.¹⁹⁷

Thus, significant damage can be done by a sheriff with only adjudicatory functions. Where a sheriff is limited to these functions, moreover, there lurks the question of what possible rationale there can be for the sheriff remaining an elected official: there is no justification for making policing the exclusive duty of appointive officials accountable to local government while leaving jail maintenance, prisoner transport, and courthouse security to elective officers unaccountable to local government. An anachronism like an elective jailer who is insulated from county regulation might seem relatively harmless, but historical inertia is no reason to retain an office with coercive authority and little accountability.

C. The Difficulties of Reform

The most important goal of reform to county law enforcement must be to ensure that county government has the authority to hire and fire the county's chief law enforcement officer, and to exercise plenary budgetary control over the agency. Whether this modified agency is called the "sheriff's office" and is headed by a "sheriff" to preserve history, or called the "county police department" and headed by a "county police chief," is inconsequential.¹⁹⁸

There will be substantial obstacles to achieving these reforms. The fact that most states establish in their constitutions the sheriff, its

¹⁹³ Id.

¹⁹⁴ Id.

¹⁹⁵ Id.

¹⁹⁶ Id.

¹⁹⁷ Conn. Const. art. XXX.

¹⁹⁸ To distinguish this appointive, county-controlled model from the sheriff as that office currently exists, however, this Note will generally refer to this type of agency as a "county police department."

elective status, and even sometimes the duties of the office, means that constitutional amendments will be necessary to give counties more control. Even allowing county government to have plenary budgetary control over the office would in many states require an “abolition” of the office in the sense of deleting it from the state constitution, since the sheriff’s constitutional status has proved important in analyses of whether and how the county may regulate the office.¹⁹⁹ Giving the county such authority would thus require states to amend their constitutions to remove any reference to the sheriff, and would then require state legislatures to pass statutes authorizing counties to create county police departments to perform the duties currently performed by the sheriff.

States in which the sheriff is not a constitutional creation will have a much easier time at reform. For example, in 1954, St. Louis County, Missouri voted to amend its charter to transfer nearly all of the sheriff’s powers to the newly formed county police department.²⁰⁰ Missouri was atypical in two respects: broad powers were granted to counties under the state constitution²⁰¹ and all reference to the sheriff’s office was removed in their 1945 Constitution.²⁰² This constitutional backdrop allowed the county (without any constitutional amendment) to create a county police department and disempower the sheriff. In St. Louis County, the sheriff still exists, though his duties are limited to court security and civil process, and the sheriff is court-appointed.²⁰³ The Missouri Supreme Court, in affirming the constitutionality of St. Louis County’s charter amendment, made much of the fact that the sheriff in

¹⁹⁹ See *supra* Subsections III.A.1 and III.A.2.

²⁰⁰ Gordon E. Misner, *The St. Louis County Department of Police: A Study in Functional Consolidation*, 48 *J. Crim. L., Criminology, and Police Sci.* 652, 655 (1958).

²⁰¹ The Missouri Constitution allows certain counties to create home rule charters, which “shall provide for . . . the form of the county government, the number, kinds, manner of selection, terms of office and salaries of the county officers, and for the exercise of all powers and duties of counties and county officers prescribed by the constitution and laws of the state.” Mo. Const. art. VI, § 18(b). The constitution also prevents the state legislature from requiring home rule counties to “provide for any other office or employee of the county” than the constitution specifically mandates. *Id.* § 18(e).

²⁰² *State v. Gamble*, 280 S.W.2d 656, 660 (Mo. 1955).

²⁰³ Sheriff’s Office, St. Louis County Courts, http://www.stlcountycourts.com/DEP_Sheriff.php [<https://perma.cc/286B-U56D>] (last visited Jan. 28, 2018).

Missouri was regarded as a county officer.²⁰⁴ Counties in other states will have a harder time transferring power from the sheriff to a county police department to the extent that their state is one in which the sheriff is a constitutional officer; counties are not granted substantial home-rule power; or the sheriff is considered a state, rather than a county, officer.²⁰⁵ Even in Missouri, if a county is not permitted to make a charter, or has not done so (only four counties have²⁰⁶), then state law mandates an elected sheriff.²⁰⁷

Thus, reform will take a large push at the outset to modify state constitutions or statutory law in order to allow counties to exercise control over law enforcement.

D. What Reform Should Look Like: The County as Ideal Level of Government for Policing and Lessons to Be Learned from the Sheriff

During and after this push for more county power, thought must be given to what policing at the county level should look like. This in turn should prompt analysis of what relationship county law enforcement should have with municipal law enforcement. Though this Note argues that the sheriff's office as it currently exists is anachronistic, unaccountable, and in urgent need of reform, there are also lessons to be learned from America's experiences with sheriffs that shed light on other problems facing policing today. In particular, this Section will argue that if proper reforms can be implemented, the county represents the best level of government at which to provide policing. As discussed in Section III.B, sheriffs have shown that the county can provide a solution to the fragmentation problem in policing by allowing municipalities to contract with the county for policing services. The problem of fragmentation necessitates thinking about policing on a larger scale than the municipality. Moving policing to the county level is the most natural solution because counties are relatively decentralized and already have established governments. (The existence of these governments gives a solution involving county policing an advantage

²⁰⁴ *Gamble*, 280 S.W.2d at 659–60.

²⁰⁵ See *supra* Subsection III.A.3.

²⁰⁶ Missouri Counties by Classification (Jan. 2012), http://www.mocounties.com/images/1131/flyer/2012classification_229.pdf [<https://perma.cc/F572-3S9T>].

²⁰⁷ Mo. Rev. Stat. § 57.010 (2016).

over solutions involving regional police forces with jurisdiction over multiple municipalities, which would suffer from the problem of there not being an existing regional governmental body to have final say over policy and operations.²⁰⁸) Consolidating the provision of policing to the county level might be accomplished under two models: the contract model, discussed in Section III.B, and the coalescence model, in which city and county police agencies merge into a unified county police department.²⁰⁹ In examining the merits of the two models, the experiences of sheriffs' offices are instructive and ultimately weigh in favor of adopting the coalescence model. This Section will discuss how to implement coalescence and the role state law should play in maximizing local accountability.

1. Shortcomings of the Contract Model of Consolidation

As the experience of the Town of Guadalupe, discussed in Section III.B, demonstrates, the contract model creates problems of misalignment between county and city. It is nonetheless a partial solution to the police fragmentation problem, and some argue that it is the most realistic solution.²¹⁰ Although this Note argues that contracting is not the best solution to fragmentation, the prevalence of these contracts and the severity of the fragmentation problem suggest that more research into policing contracts should be conducted. Contracting may be preferable to not addressing the fragmentation problem at all, and research might reveal ways to improve these contracts. For instance, the same sorts of contracts that currently exist between municipalities and county sheriffs would be possible with appointive, county-

²⁰⁸ Or, in the example of the North County Police Cooperative, which polices four municipalities in Saint Louis County, Missouri, one city operates the police department and contracts with other cities for policing services, making this simply another version of the contract model and subject to the same concerns addressed in Section III.B, *supra*. See About, North County Police Cooperative, <http://www.northcountypolice.com/about/> [<https://perma.cc/E6FT-P2LP>] (last visited Jan. 28, 2018); Associated Press, Charlack Dissolves Police Department, Joins North County Cooperative, Fox 2 News (Oct. 16, 2015), <http://fox2now.com/2015/10/16/charlack-dissolves-police-department-joins-north-county-cooperative/> [<https://perma.cc/3PBW-293M>] (identifying the cooperative as “an extension of the Vinita Park police”).

²⁰⁹ Reiss, *supra* note 178, at 64–66.

²¹⁰ See, e.g., Misner, *supra* note 148, at 445 (“Of these proposals [to address fragmentation], the police service contract offers the most feasible and practical solution.”).

controlled police departments, and this arrangement would at least avoid the problem of giving even more authority to unchecked, unaccountable sheriffs. Likewise, the specific contract provisions eventually added to the contract between the Maricopa County Sheriff's Office and the Town of Guadalupe suggest there may be ways for even smaller, poorer municipalities to negotiate for some local preferences. Ultimately, however, the problems inherent in the contract model counsel against encouraging cities and counties to address the fragmentation problem in this way when a better alternative exists.

2. The Coalescence Model Avoids the Problems of Contracting and Mitigates the Accountability Issues Inherent in Consolidation

A better solution to fragmentation is the coalescence model. This model would avoid the most problematic aspects of the contract model, while retaining its benefits. The experience of Riley County, Kansas in abolishing their sheriff and forming a consolidated county police department is an excellent model for how coalescence may be achieved.²¹¹

Riley County was able to replace its sheriff's office with a unified county police department in large part due to the work of Donn Everett, a state legislator who sought to remedy the lack of coordination between the Manhattan, Kansas Police Department and the Riley County Sheriff.²¹² Doing so required a change to Kansas law, which before 1972 allowed for the establishment of a unified county police department but required counties to have an elected sheriff as well.²¹³ In 1972, Kansas

²¹¹ William W. Childers, *Consolidation of Police Service: The Riley County Kansas Experience—A Case Study* (1977).

²¹² *Id.* at 52–53.

²¹³ See Act of March 23, 1970, ch. 117, 1970 Kan. Sess. Laws 436, 444 (allowing for unified county police departments but not the dissolution of sheriffs' offices); Act of April 23, 1965, ch. 160, § 4, 1965 Kan. Sess. Laws 359 (“A sheriff shall be elected in each organized county . . .”); Kan. Office of Revisor of Statutes, 19-801, http://www.ksrevisor.org/statutes/chapters/ch19/019_008_0001.html [<https://perma.cc/WCV6-22YW>] (last visited Jan. 28, 2018) (noting that the 1965 Act was in effect until a 1972 Act repealed it). This change did not require a constitutional amendment as it would in other states, however, because Kansas's constitution did not set forth the office of sheriff. Wyandotte Constitution, Kan. Const. art. IX, § 2 (1859) (providing that “[t]he Legislature shall provide for such county and township officers as may be necessary,” but not setting forth any such officers). N.B. Childers erroneously states that Kansas's state constitution had to be amended as part of the movement to abolish the sheriff. Childers, *supra* note 211, at 53.

passed into law House Bill No. 1795, which allowed certain counties to elect to establish their own consolidated county police departments, whereupon “[t]he sheriff of any county adopting the provisions of this act shall be and is hereby relieved of all power, authority, and responsibility now or hereafter prescribed by law.”²¹⁴ The bill only allowed ten counties out of 105 existing in Kansas to make such a change, because its applicability was limited to counties with certain population sizes and assessed tangible valuations.²¹⁵ Riley County, Kansas voted on November 7, 1972 to consolidate county and city police.²¹⁶

Adoption of the Riley County coalescence model writ large would give smaller municipalities beneficial economies of scale, while avoiding the dangers that the contract model poses with respect to accountability, local control, and lack of bargaining power. It would have the further benefit of putting the power back in the hands of the county and local governments, rather than the current system in which the sheriff has all the power and is reined in, if at all, by state actors.

There is the possible criticism that in the case of Riley County, the resolution effecting consolidation was passed by support of the City of Manhattan, despite opposition from the rural section of the county, likely due to fear that the new consolidated agency would focus on the city to the detriment of the rural areas.²¹⁷ However, when the issue came back on the ballot four years later in 1976, every precinct, urban and rural, voted to retain the consolidated county police department.²¹⁸ The benefits to rural counties included access to specialized units like “a dive team, special weapons and tactics team, a group of officers who concentrate on methamphetamine cases and even a hostage negotiations team.”²¹⁹ In 2006, Riley County’s police chief noted that Riley County “has more specialty resources than the Wichita Police Department,”

²¹⁴ Act of March 18, 1972, ch. 91, § 15, 1972 Kan. Sess. Laws 429–30.

²¹⁵ See *id.* § 23 at 433.

²¹⁶ Childers, *supra* note 211, at 54–55.

²¹⁷ *Id.* at 55–56.

²¹⁸ Rochat, *supra* note 186.

²¹⁹ Bob Johnson, Consolidation Gets Favorable Response, *Iola Register* (Dec. 2006), <http://old.iolaregister.com/Archives/News/Stories/2006/December/Consolidation%20gets%20favorable%20response.html> [<https://perma.cc/FBJ3-U3MR>].

despite the fact that “Wichita is eight times larger than our . . . department.”²²⁰

One of the hardest sells with respect to coalescence is that, unlike the contractual arrangements cities have with counties, coalescence has not been shown to save money, and may involve an initial increase in costs that may or may not produce long-term savings.²²¹ However, it should be stressed that even if there is a temporary increase in costs, there is a concomitant increase in personnel, specialized units, and equipment. And while it may be cheaper to contract with the county for such services, it is important to remember the likelihood that some of that savings comes at the expense of other cities in the same county that have their own police departments but are forced to subsidize policing of the contract cities.²²²

3. State Law Can Ensure that Municipalities Retain Control of How They Are Policed in the Coalescence Model

A final counterargument to the coalescence model is that giving so much power to the county will limit the ability of municipalities to control how they are policed.²²³ However, worries about municipal control can be allayed with the passage of state laws defining the terms of the relationship between county and municipal governments in the coalescence model.

It may reasonably be argued that what was successful for Riley County, with a population of roughly 75,000,²²⁴ is not particularly instructive for somewhere with fragmentation problems like St. Louis County, Missouri, with a population of roughly one million.²²⁵ In considering solutions to the severe fragmentation issues in St. Louis County, the think tank Police Executive Research Forum (“PERF”)

²²⁰ Id.

²²¹ Rochat, *supra* note 186 (noting that Riley County consolidation was expensive in the earlier years but was more efficient in the long run and afforded savings in administration).

²²² Nelligan & Bourns, *supra* note 149, at 77.

²²³ See *id.* at 90 (discussing municipalities’ fear of losing local control by relying on counties for policing).

²²⁴ Kansas Certified Population (2016), <http://www.rileycountyks.gov/DocumentCenter/View/13730> [<https://perma.cc/F5MU-HLGH>].

²²⁵ U.S. Census Bureau, QuickFacts St. Louis County, Missouri (2016), <http://www.census.gov/quickfacts/table/PST045215/29189> [<https://perma.cc/8U2H-UQ79>].

acknowledged the desirability of consolidation by coalescence, but ultimately found it infeasible because “the St. Louis region is large and diverse, with different crime problems and priorities, and a number of residents and community leaders we spoke with are satisfied with their police departments and work well with them.”²²⁶ Instead, PERF’s proposed solution to St. Louis County’s fragmentation problem was to create “consolidation clusters” out of contiguous municipalities that would represent a “single police district and [be] merged via contracts with either the St. Louis County Police Department” or another department.²²⁷ However, PERF’s solution, which is a slight variant on the contract model, is subject to criticisms: the model is susceptible to the disparities in bargaining power and stakeholder problems inherent in the contract model.²²⁸ PERF’s model also leaves unexplained how a consolidation cluster, comprising different local governments and lacking an obvious agent or body to represent it, will decide and negotiate for its policy preferences, or how to deal with the problem of disagreements between the individual municipalities that form a consolidation cluster. These problems are not insurmountable, but they do cast doubt on PERF’s claim that their model is more feasible than coalescence: it is unclear why communities that are satisfied with their existing police departments would reject coalescence out of hand, but consent to being grouped together with other communities as a bargaining unit to contract for law enforcement services with the county police department.

PERF was wrong to dismiss so quickly the feasibility of coalescence for large counties like St. Louis. Coalescence need not strip municipalities of control over how they are policed, nor must it result in policing becoming less tailored to individual communities’ discrete needs and preferences. In applying coalescence, the experiences of sheriffs and county police departments are instructive: counties must first be divided up into smaller geographical areas. After coalescence, the Riley County Police Department created “substations” for rural areas in the county,²²⁹ California sheriffs with municipal contracts create a

²²⁶ Police Exec. Research Forum, *supra* note 156, at 6.

²²⁷ *Id.*

²²⁸ See *supra* Section III.B and Subsection IV.D.1.

²²⁹ Childers, *supra* note 211, at 73.

“patrol station” in each contract city, which is headed by a captain,²³⁰ the St. Louis County Police Department itself is already divided into five precincts, each of which has a commanding captain.²³¹ Dividing the county into individual precincts, each headed by a captain,²³² will help county police departments service variegated communities in a way that is responsive and tailored.

A further step to allay municipalities’ fears about consolidation and to protect local accountability under coalescence is to define the county-municipal relationship in state law. Statutes could designate that every municipality above a certain size represents its own precinct and that every such municipality will retain some level of control over how its constituents are policed. As the case of Guadalupe shows, control can be given to cities under the contract model by specific contractual provisions.²³³ However, providing for municipal control by statute under the coalescence model would allow far greater protection to municipal governments: where contract provisions must be negotiated and would be subject to change at each renegotiation, codification of such provisions into law under the coalescence model would insulate the terms of the county-municipality relationship from vicissitudes in the parties’ respective bargaining power. Such a state law might provide:

Where a county elects to consolidate the county and municipal police departments into a unified County Police Department (“CPD”), the county will be divided into Precincts and each Precinct will be headed by a Captain. Each incorporated municipality with a population above _____ will represent a Municipal Precinct. Every Municipal Precinct, acting through an Officer selected by its municipal government, will

²³⁰ See Overview of LASD Patrol Stations, L.A. Cty. Sheriff’s Dep’t, http://www.la-sheriff.org/s2/page_render.aspx?pagename=patrol_detail_01 [https://perma.cc/88HJ-LXP8] (last visited Jan. 28, 2018) (explaining the organization of the Los Angeles County Sheriff’s Department); Organizational Chart, L.A. Cty. Sheriff’s Dep’t (Jul. 2, 2017), http://shq.lasdnews.net/content/uoa/EPC/LASD_Executives_Public.pdf [https://perma.cc/3T69-J42R] (same).

²³¹ Divisions of the St. Louis County Police Department, Saint Louis County, Missouri, <http://www.stlouisco.com/LawandPublicSafety/PoliceDepartment/Divisions> [https://perma.cc/9MW5-UNGR] (last visited Jan. 28, 2018).

²³² This Note uses “precinct” to refer to a geographical division of the county and “captain” to refer to the commanding officer of a precinct.

²³³ See Guadalupe Contract, *supra* note 166, and accompanying text.

have discretion to nominate and remove the Captain assigned to it, which nomination and removal CPD shall accept unless good cause for rejection is given.²³⁴ A Municipal Precinct, acting through its selected Officer, shall have the right to request in writing that any staff assigned to the Precinct by CPD be reassigned or otherwise removed from service within the Precinct. When such request is made, CPD shall comply as soon as reasonably practical.²³⁵

State law could even mandate that the officers policing a precinct receive, as in Guadalupe, “cultural training unique to [a precinct’s] history and celebrations.”²³⁶ These laws would alleviate the stakeholder problems identified in the contract model. The fact that state law, rather than a contract, creates the relationship means that bargaining power disparities between cities and counties will not give rise to the sort of brinksmanship exemplified by Sheriff Arpaio threatening to cancel Guadalupe’s contract.

CONCLUSION

While it is of course controversial to suggest that an office that has existed for over a millennium should be abolished, the office of the constable was also a feature of England for hundreds of years before coming to America, and has now almost entirely vanished. What the sheriff represents—rugged individualism, anti-bureaucratic impulse, democratic populism—are deeply held American values. However, the critical consensus today is that policing requires robust regulation, and it is evident in studying sheriffs that elections alone are not sufficient to regulate law enforcement. What perhaps made the sheriff attractive during westward expansion makes it obsolete at best and dangerously anachronistic at worst today by preventing local governments from acting as a meaningful check on the office’s powers and holding the sheriff accountable.

Whether the sheriff is abolished and replaced, or retained but transformed, the most urgent reform is that county government be given

²³⁴ “Good cause” could be statutorily defined to give the county more or less power, as could a process for the municipality to appeal this decision to a higher authority.

²³⁵ Cf. Guadalupe Contract, *supra* note 166.

²³⁶ Cf. *id.*

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authority to act as a check on county law enforcement, particularly the power to hire and fire and the power to control the department's budget. Accomplishing these changes will in most states require constitutional amendment, and this should prompt a reconsideration of how policing is administered. Though the sheriff in his current form is the wrong officer for the job, counties are the ideal level of government to provide policing services because they are closer to their constituents than the state, but not so close as to create problems of fragmentation. Studying the long history of sheriffs provides a wealth of knowledge about how policing should—and more often should not—be done at the county level. While the contract model of consolidation has its benefits and is already widely used, Guadalupe's experience with the Maricopa County Sheriff illustrates the problems inherent in such contracts. Instead, the coalescence model is superior, particularly if state laws are passed defining the relationship between counties and municipalities to maximize local accountability.

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ELECTING LAW ENFORCEMENT LEADERSHIP: EXAMINING THE EFFECTS OF POLITICS AND JOB-RELATED QUALIFICATIONS ON PERSONNEL ASSESSMENT AND DECISIONS FOR SHERIFF

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ABSTRACT

KEYWORDS

sheriff, PE fit, political affiliation, election, law enforcement

Calls for police reform have become commonplace. The enactment of organizational interventions that facilitate reform requires support from senior law enforcement leadership. Personnel selection for key law enforcement officials (e.g., sheriff, district attorneys) happens via local elections. Although organizational scientists have been integral in designing personnel selection systems that support goal accomplishment for nonelected positions, whether knowledge of personnel assessment and decisions for nonelected positions generalizes to elected positions is unknown. This study examines the extent to which the tenets of P–E fit theory generalize to personnel selection for sheriff. Results suggest that voters form unique perceptions of candidates' person–job and person–organization fit, these perceptions are heavily influenced by partisan beliefs about policing that vary within and across political parties, perceptions of both forms of compatibility meaningfully influence personnel assessment and decisions, and voters are approximately 40% more likely to endorse candidates with lower job-related qualifications when they share their political affiliations. These findings largely support the generalizability of PE fit theory to personnel selection for elected positions and offer insight concerning how organizational scientists might aid the hiring of officials who are willing and able to institute police reform initiatives that support the wants and needs of their communities.

“Every society gets the kind of criminal it deserves. What is equally true is that every community gets the kind of law enforcement it insists on.”
– Robert Kennedy

From the Black Lives Matter movement to the armed insurrection on Capitol Hill, calls for police reform have become commonplace in 2020–21. The aim of this special issue is to explore how those in the organizational sciences can contribute. Certainly, experts in this field have the capacity to better the personnel practices of law enforcement agencies through initiatives targeting the psychological assessment of officers or training and development, for example. An important requirement for the enactment of this capacity, however, is support from senior law enforcement officials.

Lack of management support is recognized as a key barrier to organizational change (Anderson, 2020; Rosen-

berg & Mosca, 2011). Those who lead organizations determine the goals they pursue and the strategies they employ to do so (Zaccaro, 1996). Likewise, through their communication and decision making, organizational leaders send signals that serve to inform the shared values and assumptions that come to define organizational culture (Berson et al., 2008; Schein, 2010; Schneider, 1987). For the contributions of organizational scientists to be implemented in ways that meaningfully advance police reform, senior law enforcement officials who value this work must be employed in top-management positions. Whereas personnel selection happens through appointment for some of these positions, for others, they are chosen by their communities via local

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elections.

Elected law enforcement positions include sheriffs, district attorneys, and state attorneys general. Advocates for police reform understand the importance of these positions for advancing change. President Barack Obama (2020), for example, recently espoused in his essay *How to Make this Moment the Turning Point for Real Change* that, “the elected officials who matter most in reforming police departments and the criminal justice system work at the state and local levels” (paragraph 6). This is because sheriffs have wide discretion when it comes to deciding how to police their jurisdictions (Pishko, 2019), district attorneys determine how and whether to charge people with crimes (Ben & Jerry’s, 2020), and state attorneys general investigate police abuse with the power to mandate court-enforced reform acts like requiring officers to wear body cameras and undergo de-escalation training (Rushin & Mazzone, 2020).

Organizational scientists have been instrumental in advancing hiring practices that have meaningfully benefited personnel selection across a wide variety of work. In their historical review of the field, Zickar and colleagues (2007), for example, note that, “employee selection always has been the bread-and-butter issue for American I-O psychologists” (p.73). The extent to which our understanding of personnel assessment and decisions applies to the hiring of elected officials, however, is largely unknown. Over a decade ago, Silvester and Dykes (2007) lamented that, “There has been surprisingly little consideration of how selection of political candidates compares with employee selection” given that selection “lies at the heart” of elections (p.11). Across federal, state, and local organizations, those who are employed in elected positions now lead approximately 15% of the U.S. workforce—over 24 million public sector employees whose jobs shape the economy, healthcare, educations, municipal services, and law enforcement (Hill, 2020). Nevertheless, little is known concerning whether the psychology that is understood to influence employment decisions for nonelected positions generalizes to, and can subsequently benefit, decision making for employment in elected positions.

In this study, we examine personnel selection for an elected law enforcement position (i.e., Sheriff) through the lens of industrial-organizational (I-O) psychology. More specifically, we examine the extent to which the tenets of person–environment (P–E) fit theory (c.f., Kristof-Brown et al., 2005) generalize to judgment and decision making in this context. Research on P–E fit and personnel selection has consistently demonstrated that perceptions of person–job (P–J) and person–organization (P–O) fit uniquely influence hiring decisions across a variety of contexts, with perceptions of P–J fit (i.e., fit between worker capabilities and job demands) typically having a greater influence on these decisions than perceptions of P–O fit (i.e., fit between worker values and organizational culture; Kristof-Brown et al., 2005; Nolan et al., 2016; Sekiguchi & Huber, 2011).

Political science research, however, suggests that value-laden partisan beliefs often influence decisions more greatly than merit-based criteria, especially in today’s highly polarized political climate (Iyengar & Krupenkin, 2018; Iyengar & Westwood, 2015). By examining the extent to which the tenets of P–E fit theory apply to the election of senior law enforcement leadership, this research supplements our understanding of voter behavior—which has largely come from political science paradigms—and affords insight concerning how organizational scientists might contribute to the design of selection contexts in ways that facilitate the hiring of executives who are willing and able to institute police reform (i.e., organizational change) initiatives that support the wants and needs of their communities.

Person–Environment Fit and Personnel Selection

P–E fit concerns the compatibility that results from individual and work environment characteristics being well matched (Kristof-Brown et al., 2005). Fit occurs across multiple aspects of the work environment, with P–J and P–O fit being particularly pertinent to personnel selection (Cable & DeRue, 2002). P–J fit refers to the compatibility between an individual’s attributes and those of the job or tasks that are performed at work (Edwards, 1991). This dimension of fit typifies the traditional view of personnel selection wherein emphasis is placed on the matching of employee knowledge, skills, abilities, and other qualities to job demands (Ployhart et al., 2005). P–O fit, on the other hand, refers to the compatibility between an individual’s characteristics (e.g., values) and those that define an organization’s unique culture (Kristof, 1996). Consistent with the tenets of Schneider’s (1987) attraction-selection-attrition theory, this dimension of fit is similarly recognized as a key factor influencing personnel selection decisions (Jansen & Kristof-Brown, 2006). Although fit theory is so well supported as to be considered, “a cornerstone of industrial/organizational psychology and human resource management” (Saks & Ashforth, 1997, p.395), there are several reasons why fit theory scholarship might not generalize to the hiring of elected law enforcement officials in ways that are faithful to personnel selection for the nonelected positions that have been the subject for much of this research.

Whereas personnel selection decisions for nonelected positions are typically made by a select few organizational insiders, employment decisions for elected positions are made by a diverse body of outsiders for whom the organizations serve (Mirvis & Hackett, 1983). The organizational insiders who practice personnel selection for nonelected positions are expected to have in-depth knowledge of job requirements for the positions being filled, the cultures of employing organizations, the work-related qualifications and characteristics of job candidates, and the legal guidelines that govern personnel selection (Farr & Tippins, 2010; Guion, 2011). Political science research, however, suggests

that voters commonly lack commensurate insights about personnel selection for elected positions. Rather, “one of the most striking contributions to political science of a half century of survey research has been to document how poorly ordinary citizens approximate a classical ideal of informed democratic citizenship” (Bartels, 1996, p.195). In what is being called a “democratic dilemma” (Lupia & McCubbins, 1998, p.1), research suggests that voters are largely unaware of the work performed by politicians and their standing on specific policy matters (Althaus, 1998; Ashworth & Bueno De Mesquita, 2014; Delli Carpini, & Keeter, 1996). Instead, voters have been found to rely heavily on heuristics when evaluating political candidates, especially their party identification (e.g., Democrat, Republican; Dancy & Sheagley, 2013; Lau & Redlawsk, 2001; Popkin, 1991). Reliance on partisan heuristics to evaluate politicians has risen sharply since the 1980s (Haidt & Hetherington, 2012; Iyengar et al., 2012), with affective polarization resulting in increasingly negative views of the out party and its supporters (Iyengar & Westwood, 2015; Munro et al., 2010). Because voters rely so heavily on party-based heuristics to evaluate candidates, whether they form distinct perceptions of the candidates’ P–J and P–O fit in ways that are commensurate with what has been reported in personnel selection research for nonelected positions is questionable; and the extent to which those perceptions might be influenced by objective work-related information versus the candidates’ political affiliations is unknown. Therefore, we sought answers to the following research questions. When given basic information about candidates (e.g., education, experience, political party identification) and the elected positions they are seeking (e.g., job duties):

Research Question 1: Do voters form distinct perceptions of P–J and P–O fit?

Research Question 2: To what extent might voters’ perceptions of P–J and P–O fit be informed by candidates’ job-related qualifications versus their political affiliations?

Research Question 3: How do Democrat and Republican voters differ in terms of their beliefs about the police practices their own political party values/supports and their beliefs about the practices the other party values/supports?

Should voters form distinct perceptions of candidates’ P–J and P–O fit, whether those perceptions influence their hiring decisions in ways that are commensurate with the trends observed in research on personnel selection for nonelected positions, is also questionable for a variety of reasons. For example, the legal and practical guidelines

that govern personnel selection for nonelected positions emphasize the importance of placing greater weight on the compatibility between candidates’ job-related qualifications and job requirements (i.e., P–J fit) than the compatibility between their character (e.g., values) and organizational culture (i.e., P–O fit), largely because subject evaluations of the latter form of compatibility tend to be heavily influenced by idiosyncratic beliefs and biases that facilitate discriminatory hiring decisions (Arthur et al., 2006; Guion, 2011; Highhouse et al., 2015). Accordingly, research on personnel selection for non-elected positions has consistently demonstrated that evaluations of P–J fit have a greater influence on hiring decisions than evaluations of P–O fit across a variety of contexts (Kristof-Brown et al., 2005; Sekiguchi & Huber, 2011). Personnel selection for elected positions, however, is not governed by similar guidelines emphasizing the importance of basing hiring decisions on P–J fit. Rather, from political campaigns to the design of election ballots, the decision contexts surrounding elections purposefully focus attention on value-laden ideological differences between candidates based on their party affiliations (e.g., Democrat, Republican). Accordingly, political science research suggests that people often eschew objective measures of merit in favor of partisan bias (Iyengar & Krupenkin, 2018; Iyengar & Westwood, 2015). Because political party heuristics are inherently value-laden (e.g., conservative, liberal), it is possible that—contrary to the trends observed in personnel selection for nonelected positions—hiring decisions for elected positions are more heavily influenced by perceptions of P–O fit than perceptions of P–J fit.

Another factor casting doubt on the extent to which trends observed in personnel selection for nonelected positions generalize to the hiring of elected officials concerns where the positions stand in terms of organizational hierarchy. Research examining how assessments of P–J and P–O fit influence personnel selection for nonelected positions has near exclusively focused on rank-and-file workers (Giberson et al., 2005). Whether the trends observed during hiring for these positions apply to the executive leadership positions for which election decisions are made is uncertain given fundamental differences in the nature of work performed.

Executives are the most influential members of top management and are ultimately responsible for the success of their organizations (Mintzberg, 1979). Unlike lower level positions, the work performed by executives is directed toward the development and administration of the organization as a whole (Silzer, 2002). They are expected to adopt a long-term perspective of their organization within its environment and generate short-term goals and strategies that are consistent with this perspective. In their planning and execution of social influence, executives must balance a myriad of conflicting constituencies, demands, goals, and

requirements both within and beyond their organizations (Zaccaro, 1996). Although the scope of this work is unique, executive leadership, like leadership at other organizational levels, still involves task and relational components (Barnard, 1938; Fiedler, 1996). Accordingly, “fit” is recognized as an important factor considered during personnel selection for executive positions (Hollenbeck, 2009).

Hollenbeck (2009) noted that the successful selection of executives is contingent upon fit among three sets of variables: those of candidates, organizations, and external environments. Sessa and Taylor (2000) likewise claimed that assessing fit among the characteristics of candidates, organizations, and business strategies is of upmost importance when hiring executives. Moses and Eggebeen (1999) further espoused the need to base executive selection on the fit between individual candidates and organizational climates as they change over time. Research by the Center for Creative Leadership supports that two of the top reasons cited for why organizational executives are hired are that the candidates were the “best fit to the job” and “best fit to organizational culture” (Sessa et al., 1998). Despite general agreement that “fit” is an important factor influencing personnel selection for executive positions, a shortcoming of the limited empirical research that has examined fit and hiring at this level of leadership is that “fit” is often conceptualized/operationalized in ways that include/confound multiple dimensions of P–E fit (e.g., combine P–J and P–O fit; c.f., Harris & Ellis, 2018). This lack of methodological rigor, combined with fundamental differences in the work performed by executive leaders versus rank-and-file workers, has resulted in divergent beliefs about how fit is considered during the hiring of executives.

The extent to which executives are responsible for shaping their organizations has led to alternative views about how P–E fit affects performance at this level of leadership. Whereas some assert that high levels of fit benefit organizational performance (i.e., the similarity perspective), others argue that misfits are better suited to lead organizations as agents of change (i.e., the dissimilarity perspective; Rutherford, 2017). Those who ascribe to the similarity perspective of leader congruence believe that high fit between an executive and an organization facilitates performance by enhancing the executive’s ability to correctly assess and interpret the organizational environment, which benefits strategic decision making (Westerman & Vanka, 2005). Furthermore, when an executive’s behavior is aligned with the espoused values of an organization’s culture, it is expected to foster collective goal commitment through sending unambiguous signals about the kinds of behavior that are expected, supported, and rewarded (Hartnell et al., 2016). The dissimilarity perspective of leader congruence is informed by the negative connotations associated with concepts like groupthink, wherein too much consensus suppresses healthy conflict and innovation (Rutherford, 2017),

and Schneider’s (1987) assertion that excessive homogeneity stifles organizational development through myopic perspective. Whereas similarities between executive leadership and organizational culture are considered inefficient as they convey redundant information (Kerr & Jermier, 1978), misfit is valued for the introduction of new ideas and actions that stimulate organizational change and development (Hartnell et al., 2016; Walsh, 1988). With executives having such influence over the organizations they lead, these divergent perspectives on how fit—especially P–O fit—influences performance raise further questions about whether the trends observed in personnel selection for nonelected, rank-and-file positions generalize to the hiring of elected executives. To better understand how work-related qualifications, political affiliations, and perceptions of fit influence hiring for elected leadership positions, this research also sought answers to the following research questions.

Research Question 4: To what extent do voters’ perceptions of P–J and P–O fit influence their overall evaluations of candidates’ suitability for employment and election decisions?

Research Question 5: How likely are voters to choose a candidate with lower job-related qualifications because that candidate shares their political affiliation?

METHOD

Sample

An initial sample of $n = 475$ self-reported registered voters was recruited via MTurk. Participants who incorrectly responded to prompts embedded in the survey and/or failed to complete the full survey were removed. The final sample ($n = 393$) was primarily between the ages of 25–34 (32.1%), male (50.1%), White (83.1%) Democrat (52.9%), hold a bachelor’s degree from a 4-year college or university (48.8%), and represent 43 of the 50 United States. General support for the representativeness of the sample is afforded by a comparison of these statistics with those of Gramlich (2020), as shown in Table 1.

Design and Procedure

After reading a brief job description for sheriff (Appendix A), participants were provided resumes for two candidates (Appendix B) and asked to jointly evaluate them in terms of their person–job fit, person–organization fit, and overall suitability for the position, and then select the candidate for whom they would vote. Resumes were modeled after those commonly found on candidates’ websites and presented in pairs such that each participant evaluated one candidate with higher job-related qualifications and the other with lower job-related qualifications. In each pairing, one candidate was a Republican and the other was a Dem-

ocrat, except for in a control condition wherein no political affiliations were reported for either candidate. Across study conditions, pairings of job-related qualifications (high, low) and political affiliations (Democrat, Republican) were presented evenly and counterbalanced to avoid order effects. The pairings presented in each study condition are outlined in Figure 1 below. The results of a pilot test, which suggest that stimuli were considered realistic and the manipulations

were perceived as intended, are available from the first author upon request. After evaluating the candidates, participants were asked to rank order 12 statements about policing to reflect beliefs about how much they are supported/valued by Republicans and Democrats, and then complete demographic measures (Appendix C).

Measures

All measures were completed using a 5-point (*Strongly*

TABLE 1.
Study Demographics Compared to 2020 U.S. Registered Voter Demographics

	Study demographics	U.S. registered voter demographics
Political affiliation		
<i>Independent</i>	20.4%	34%
<i>Democrat</i>	52.9%	33%
<i>Republican</i>	26.7%	29%
Race		
<i>White (non-Hispanic)</i>	83.1%	69%
<i>Black</i>	6.6%	11%
<i>Other</i>	10.3%	8%
Age		
<i>50 and older</i>	<30%	52%
Education		
<i>No college degree</i>	50.6%	65%
<i>College degree holder</i>	48.3%	35%

Source: Gramlich (2020)

FIGURE 1.
Candidate Pairings by Job-Related Qualifications and Political Affiliations

Condition	Candidate A	Candidate B
1	High job-related qualifications, Democrat	Low job-related qualifications, Republican
2	Low job-related qualifications, Republican	High job-related qualifications, Democrat
3	Low job-related qualifications, Democrat	High job-related qualifications, Republican
4	High job-related qualifications, Republican	Low job-related qualifications, Democrat
5	High job-related qualifications, no political affiliation provided	Low job-related qualifications, no political affiliation provided
6	Low job-related qualifications, no political affiliation provided	High job-related qualifications, no political affiliation provided

Disagree–Strongly Agree) response scale unless otherwise noted.

Person–job fit was evaluated using a 4-item modified version of *Lauver and Kristof-Brown’s (2001)* measure of perceived demands–abilities fit ($\alpha = .87$). This measure was modified to fit the existing decision context, aligning the items with the job of sheriff. An example item from the scale is, “There is a good fit between this candidate’s personality and the kind of personality that should characterize the culture of the sheriff’s department.”

Person–organization fit was evaluated using a 4-item modified version of *Cable and Judge’s (1996)* measure of perceived person–organization fit ($\alpha = .89$). This measure was modified by aligning the items with the organizational context of the sheriff’s department. An example item from this scale is, “There is a good fit between this candidates’ values and the kinds of values that should characterize the culture of the sheriff’s department.” Assessing beliefs about compatibility between the candidates and what attributes should characterize the culture of the department rather than what attributes actually characterize the department was done in recognition of leader mandates to change/manage organizational culture and the lack of a rich cultural portrayal in the job description.

Suitability for employment was evaluated using a 4-item modified version of *Fritzsche and Marcus’ (2013)* measure of candidate suitability ($\alpha = .90$). This modification was to improve the congruence between the measure and the job of sheriff. An example item from this scale is, “This candidate is an attractive choice for sheriff.”

Rankings of police value/support were collected by asking participants to rank order 12 statements about policing twice: once in terms of the extent to which Republicans value/support them, and then again in terms of the extent to which Democrats value/support them.

RESULTS

Analyses involving participants’ perceptions of the candidates’ P–J fit, P–O fit, and suitability for employment were conducted using long-form data to most appropriately address the research questions. Consistent with best practice, a subject variable representing each individual’s multiple responses was entered as a control variable in the analyses. Doing so serves to model nonindependence accompanying the conversion of within-subjects data to person–period format (*Bliese & Ployhart, 2002; Cable & Yu, 2006; Nolan & Harold, 2010; Ployhart et al., 2002*).

With political science research suggesting that voters’ evaluations of candidates are more often influenced by value-laden partisan heuristics than objective information, whether they form distinct perceptions of P–J and P–O fit in ways that are similar to personnel selection for nonelected positions is unknown. To address this research question

(RQ1), confirmatory factor analysis was conducted to examine the underlying factor structure of the measures used in the study. Results suggest that a three-factor model (perceived P–J fit, perceived P–O fit, perceived suitability for employment), $\chi(51)2 = 297, p < .001, CFI = .962, TLI = .951, RMSEA = .078$ (see *Table 2*), better fit the data than a two-factor model wherein perceptions of P–J and P–O fit were combined into a single “fit” factor (perceived “fit,” suitability for employment), $\chi(53)2 = 1112, p < .001, CFI = .836, TLI = .796, RMSEA = .159$, or a one-factor model wherein perceptions of P–J fit, P–O fit, and suitability for employment were combined into a single “general evaluation” factor, $\chi(54)2 = 1300, p < .001, CFI = .807, TLI = .764, RMSEA = .171$. These findings support the construct validity of the scales used in the study and suggest that voters—similar to decision makers for personnel selection to nonelected positions—formed distinct perceptions of P–J and P–O fit, and that these perceptions are unique from their overall evaluations of candidates’ suitability for employment. Descriptive statistics and bivariate correlations for study measures are provided in *Tables 3 and 4*, respectively.

Although the results of confirmatory factor analysis support that voters form distinct perceptions of P–J and P–O fit, the extent to which these beliefs are informed by candidates’ job-related qualifications versus their political affiliations is unknown. To address this research question (RQ2),

TABLE 2.
Confirmatory Factor Analysis of Study Measures

Factor	Indicator	Estimate	SE	Z	p
P–J fit	P–J knowledge	0.613	0.0246	24.9	<.001
	P–J abilities	0.643	0.0241	26.6	<.001
	P–J skills	0.649	0.0225	28.8	<.001
	P–J experience	0.585	0.0258	22.7	<.001
P–O fit	P–O personality	0.702	0.0261	26.9	<.001
	P–O values	0.707	0.0253	28	<.001
	P–O goals	0.69	0.0251	27.5	<.001
	P–O policing beliefs	0.665	0.0253	26.3	<.001
Suitability	Suitability 1	0.714	0.0262	27.3	<.001
	Suitability 2	0.832	0.0295	28.2	<.001
	Suitability 3	0.767	0.0266	28.8	<.001
	Suitability 4	0.672	0.0253	26.6	<.001

CFA results: $\chi(51)2 = 297, p < .001, CFI = .962, TLI = .951, RMSEA = .078$

TABLE 3.

Descriptive Statistics for Candidates by Qualifications and Political Affiliations

Job-related qualifications	Political affiliations	Suitability		Person-job fit		Person-organization fit	
		Mean	SD	Mean	SD	Mean	SD
Higher	Democrat	4.21	0.693	4.42	0.593	4.05	0.686
	Not disclosed	4.14	0.747	4.37	0.632	4.03	0.718
	Republican	3.98	0.85	4.31	0.744	3.92	0.789
Lower	Democrat	3.9	0.783	4.14	0.652	3.84	0.763
	Not disclosed	3.81	0.758	4.07	0.552	3.76	0.653
	Republican	3.87	0.831	4.16	0.75	3.83	0.755

TABLE 4.

Correlations of Study Measures

	1	2	3	4
1 Suitability for employment	(.90)			
2 Person–job fit	.63**	(.87)		
3 Person–organization fit	.76**	.55**	(.90)	
4 Voting decision (1 = No, 2 = Yes) ^a	.85**	.30*	-.14	-

Note. ** indicates $p < .001$; * indicates $p < .05$; ^a indicates binomial logistic regression, Cronbach's alpha for reliability of measures is listed in parentheses.

the candidates' job-related qualifications but also the combination of their own political affiliations with the candidates' political affiliations, especially for Republican voters who generally reported that Democratic candidates were less capable of performing these demands than Republican candidates.

Concerning P–O fit, results suggest that participants' perceptions of this form of congruence were also affected by candidates' job-related qualifications, $F(1,775) = 16.113$, $p < .001$ (higher qualifications: $M = 4.03$, 95%CI [3.96, 4.11]; lower qualifications: $M = 3.83$, 95% CI [3.75, 3.90]) and political affiliations, $F(2,775) = 3.198$, $p = .041$. The main effect of candidates' political affiliations, however, was again superseded by a significant candidates' political affiliations x participants' political affiliations interaction, $F(4,775) = 8.21$, $p < .001$ (Table 6, Figure 3). Whereas both Republican ($M = 3.96$, 95% CI [3.79, 4.12]) and Democratic ($M = 3.95$, 95% CI [3.83, 4.08], $d = .028$) participants

rated Democratic candidates similarly in terms of their P–O fit, Democratic participants ($M = 3.73$, 95% CI [3.60, 3.85]) rated Republican candidates significantly lower than Republican participants ($M = 4.11$, 95% CI [3.94, 4.28], $d = -.483$). Model fit measures suggest that factoring political affiliations, both candidates' and participants', into the model approximately tripled the amount of variance in perceptions of P–O fit that were accounted for by the model above and beyond candidates' job-related qualifications. These findings suggest that voters' beliefs about the compatibility between candidates and organizational culture were influenced by both the candidates' job-related qualifications as well as the combination of their own political affiliations with the candidates' political affiliations, especially for Democratic voters who generally reported that Republican candidates were less culturally compatible than Democratic candidates.

Having found support for the idea that voters form unique perceptions of candidates' P–J and P–O fit, and that these perceptions are meaningfully influenced by the combination of their political affiliations and the candidates' political affiliations, the rankings participants assigned to the 12 statements about policing were next examined to better understand how Democratic and Republican voters differ in terms of their beliefs about the police practices their own political party values/supports and their beliefs about the practices the other party values/supports (RQ3). Each participant ranked the statements twice: once in terms of the extent to which Republicans value/support them, and then again in terms of the extent to which Democrats value/support them. Splitting these rankings according to participants' self-reported political affiliations afforded comparisons between Republicans' beliefs about Republicans, Democrats' beliefs about Republicans, Democrats' beliefs about Democrats, and Republicans' beliefs about Democrats. First, for ease of interpretation, the 12 rankings were clustered in terms of priority, with those statements ranked

stepwise linear regression with accompanying ANOVA output was conducted to examine the effects of candidates' qualifications, candidates' political affiliations, and participants' political affiliations on their perceptions of P–J and P–O fit. Using the general linear model in this way allowed for the modeling of nonindependence associated with using within-subjects data in person–period format (Cable & Yu, 2006; Nolan & Harold, 2010; Ployhart et al., 2002) while also providing estimates of the incremental variance in perceptions of fit that political affiliations (participant, candidate, participant x candidate) account for above and beyond candidates' job-related qualifications (Keith, 2006). Two separate analyses were conducted, one for perceptions of P–J fit and the other for perceptions of P–O fit. In both analyses, the subject variable was entered in Block 1 of the model to account for nonindependence in the data, the main effect of candidate qualifications was entered into Block 2 of the model, the main effects of candidates' political affiliations and participants' political affiliations were entered into Block 3 of the model, and an interaction term representing the combination of candidate' political affiliations x participants' affiliations was entered into Block 4 of the model.

Results suggest that perceptions of P–J fit were affected by candidates' job-related qualifications, $F(1,775) = 30.79, p < .001$ (higher qualifications: $M = 4.39, 95\% \text{ CI } [4.32, 4.45]$; lower qualifications: $M = 4.13, 95\% \text{ CI } [4.07, 4.20]$) and participants' political affiliations, $F(4,775) = 10.31, p < .001$; with the effect of participants' political affiliations being superseded by a significant candidates' political affiliations x participants' political affiliations interaction, $F(4,775) = 5.91, p < .001$ (Table 5, Figure 2). Whereas both

Democratic ($M = 4.21, 95\% \text{ CI } [4.10, 4.32]$) and Republican participants ($M = 4.21, 95\% \text{ CI } [4.06, 4.36], d = .07$) rated Republican candidates' P–J fit similarly, Republican participants ($M = 4.09, 95\% \text{ CI } [3.94, 4.24]$) rated Democratic candidates as having significantly less P–J fit than Democratic participants ($M = 4.31, 95\% \text{ CI } [4.20, 4.43], d = .33$). Model fit measures indicate that factoring political affiliations, both candidates' and participants', into the model approximately doubled the amount of variance in perceptions of P–J fit that were accounted for by the model above and beyond candidates' job-related qualifications. These findings suggest that voters' beliefs about candidates' ability to perform job demands were not only affected by

FIGURE 2. Multiple Regression Model With ANOVA Output: Person–Job Fit

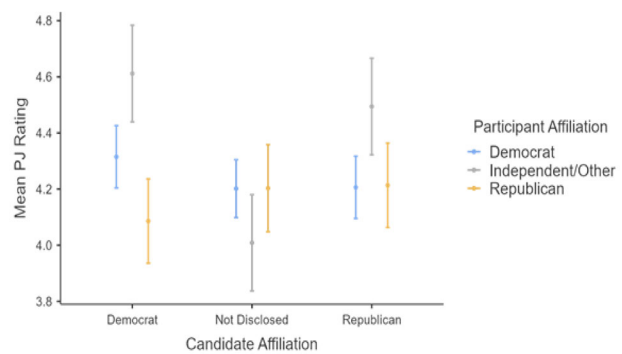


TABLE 5. Multiple Regression Model With ANOVA Output: Person–Job Fit

Model	R	R ²	F	df1	df2	p
1	0.091	0.008	6.52	1	784	0.011
2	0.162	0.026	10.52	2	783	<.001
3	0.202	0.041	5.54	6	779	<.001
4	0.235	0.055	4.53	10	775	<.001

	Sum of squares	df	Mean square	F	p
Candidate qualifications	8.271	1	8.271	16.113	<.001
Candidate affiliation	3.283	2	1.641	3.198	0.041
Participant affiliation	0.311	2	0.156	0.303	0.738
Candidate Affiliation * Participant Affiliation	6.03	4	1.508	2.937	0.02
Residuals	397.839	775	0.513		

Note. Type 3 sum of squares.

1–4 labeled “high priority,” 5-8 labeled “medium priority,” and 9-12 labeled “low priority.” Frequency counts for how often Republican and Democratic participants assigned these rankings to the statements were then tallied and converted in percentages (Table 7, Figure 4). A review of differences in the percentages of Democratic and Republican participants ranking statements about policing as being “high” priority for Democrats and Republicans offers insight into why candidates’ political affiliations affected participants’ beliefs about their ability to perform job demands well (P–J fit) and create/maintain a desirable organizational culture (P–O fit).

Multiple noteworthy differences were observed in the rankings Democratic and Republican participants ascribed to statements about what their own political parties value/support. These differences highlight actual points of disparity between party members in terms of their policing priorities. Notable findings include: 42% of Democratic participants versus 19% of Republican participants indicating that “increased police accountability” was a high priority for their respective parties, 49% of Republican participants versus 24% of Democratic participants reporting that support for “broken windows policing” is a high priority their respective parties, 70% of Republican participants versus 22% of Democratic participants indicating that support for “stop-and-frisk practices” is a high priority issue their respective parties, and 48% of Democratic participants versus 29% of Republican participants indicating that “defunding the police” is of high priority for their respective political parties.

In addition to actual differences between members of

the political parties concerning what issues they consider to be of high priority for their respective parties, a variety of notable differences were also observed between what participants from one political party reported were high priority for their party and what they perceived were high priority issues for the other political party. For example, whereas 46% of Democratic participants ranked “police surveillance” as a high priority for the Republican party, only 29% of Republican participants actually reported the issue as high priority for their party. Likewise, whereas 73% of Republican participants reported that “defunding the police” is a high priority issue for the Democratic party, only 48% of Democratic participants actually reported it as a high priority issue for their party. Similarly, whereas 67% of Democratic participants reported that support for “broken

FIGURE 3.
Mean Person–Organization Fit by Candidate and Participant Political Affiliation

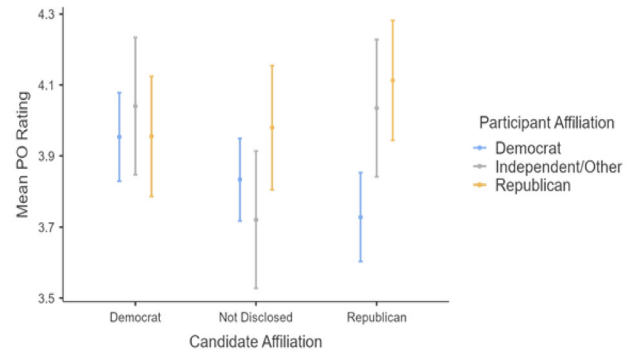


TABLE 6.
Multiple Regression Model With ANOVA Output: Person–Organization Fit

Model	R	R ²	F	df1	df2	p
1	0.13	0.016	13.11	1	784	<.001
2	0.23	0.051	21.18	2	783	<.001
3	0.27	0.071	9.87	6	779	<.001
4	0.31	0.098	8.44	10	775	<.001

	Sum of squares	df	Mean square	F	p
Candidate qualifications	12.49	1	12.485	16.44	<.001
Candidate affiliation	1.07	2	0.535	30.79	<.001
Participant affiliation	8.36	2	4.179	1.32	0.268
Candidate Affiliation * Participant Affiliation	9.59	4	2.397	10.31	<.001
Residuals	314.22	775	0.405	5.91	<.001

Note. Type 3 sum of squares.

windows policing” is a high priority issue for the Republican party, only 49% of Republican participants likewise endorsed the issue as being of high priority. These findings serve to highlight voters’ partisan beliefs about policing and offer insight into why the combination of voters’ and candidates’ political affiliations affect voters’ perceptions of candidates’ P–J and P–O fit.

Stepwise multiple regression was next conducted to examine the relationships between participants’ perceptions of candidates’ P–J and P–O fit and their beliefs about the candidates’ suitability for employment, and if the relative magnitude of these relationships are consistent with those found in research on personnel selection for nonelected positions (RQ4). The subject variable was entered in Block 1 of the model to account for nonindependence in the data, measures of perceived P–J and P–O fit were entered into Block 2 of the model, and the interaction between measures of perceived P–J and P–O fit was entered into Block 3 of the model. Results (see Table 8) suggest that voters’ beliefs about the candidates’ suitability for employment were significantly influenced by their perceptions of both the candidates’ P–J fit ($\beta = .30$, 95%CI [.25, .35]) and their perceptions of the candidates’ P–O fit ($\beta = .59$, 95%CI [.54, .64]), $F(3,782) = 463.70$, $R^2 = .64$, $p < .001$. The interaction between P–J and P–O fit, however, was nonsignificant. Like personnel selection for nonelected positions, these

findings suggest that perceptions of both forms of compatibility meaningfully influenced evaluations of suitability for employment. Unlike personnel selection for nonelected positions, however, perceptions of P–O fit—not perceptions of P–J fit—had the greater influence on these judgments.

Stepwise logistic regression was also conducted to examine the relationships between voters’ perceptions of candidates’ P–J and P–O fit and their selection of candidates to employ in the position (RQ4). Again, the subject variable was entered in Block 1 of the model to account for nonindependence in the data, measures of perceived P–J and P–O fit were entered into Block 2 of the model, and the interaction between measures of perceived P–J and P–O fit was entered into Block 3 of the model. Results (see Table 9) suggest that voters’ choice of candidate to employ was meaningfully influenced by their perceptions of both P–J ($\beta = .60$, 95%CI [.32, .87], odds ratio = 1.82, $Z = 4.25$) and P–O fit ($\beta = .39$, 95%CI [.15, .63], odds ratio = 1.48, $Z = 3.19$), $\chi^2(3) = 60.00$, $R^2_{McF} = .06$, $p < .001$, Accuracy = .62. The interaction of P–J and P–O fit on decision making, however, was nonsignificant. Although results of the previous analysis suggest that voters’ beliefs about the candidates’ suitability for employment were more strongly influenced by their perceptions of P–O than P–J fit, the results of this analysis suggest that voters’ selection of which candidate to employ was more strongly influenced by their perceptions

TABLE 7.
Frequency Distribution: Ranking Values/Supported Practices

	Dem rating Dem			Dem rating Rep			Rep rating Dem			Rep rating Rep		
	Low	Med	High	Low	Med	High	Low	Med	High	Low	Med	High
Defunding the police	58	51	99	127	23	58	10	18	77	63	12	30
Community-oriented policing	19	62	127	25	66	117	9	20	76	8	20	77
Stop-and-frisk practices	122	40	46	11	42	155	37	24	44	14	18	73
Broken windows policing	106	52	50	10	58	140	28	38	39	15	39	51
Use-of-force reform	23	82	103	43	98	67	10	39	56	14	52	39
Diversity initiatives	19	114	75	81	102	25	8	58	39	29	54	22
Civil liberties	33	105	70	55	107	46	26	60	19	17	61	27
De-escalation training	42	113	53	57	116	35	25	62	18	16	60	29
Crisis intervention training	90	74	44	79	83	46	65	28	12	50	38	17
Police surveillance	162	23	23	68	45	95	82	13	10	49	26	30
Implicit bias training	87	67	54	148	47	13	64	19	22	83	17	5
Increased police accountability	71	49	88	128	45	35	56	24	25	62	23	20

FIGURE 4.
Percentage of High Priority Rankings for Values/ Supported Practices

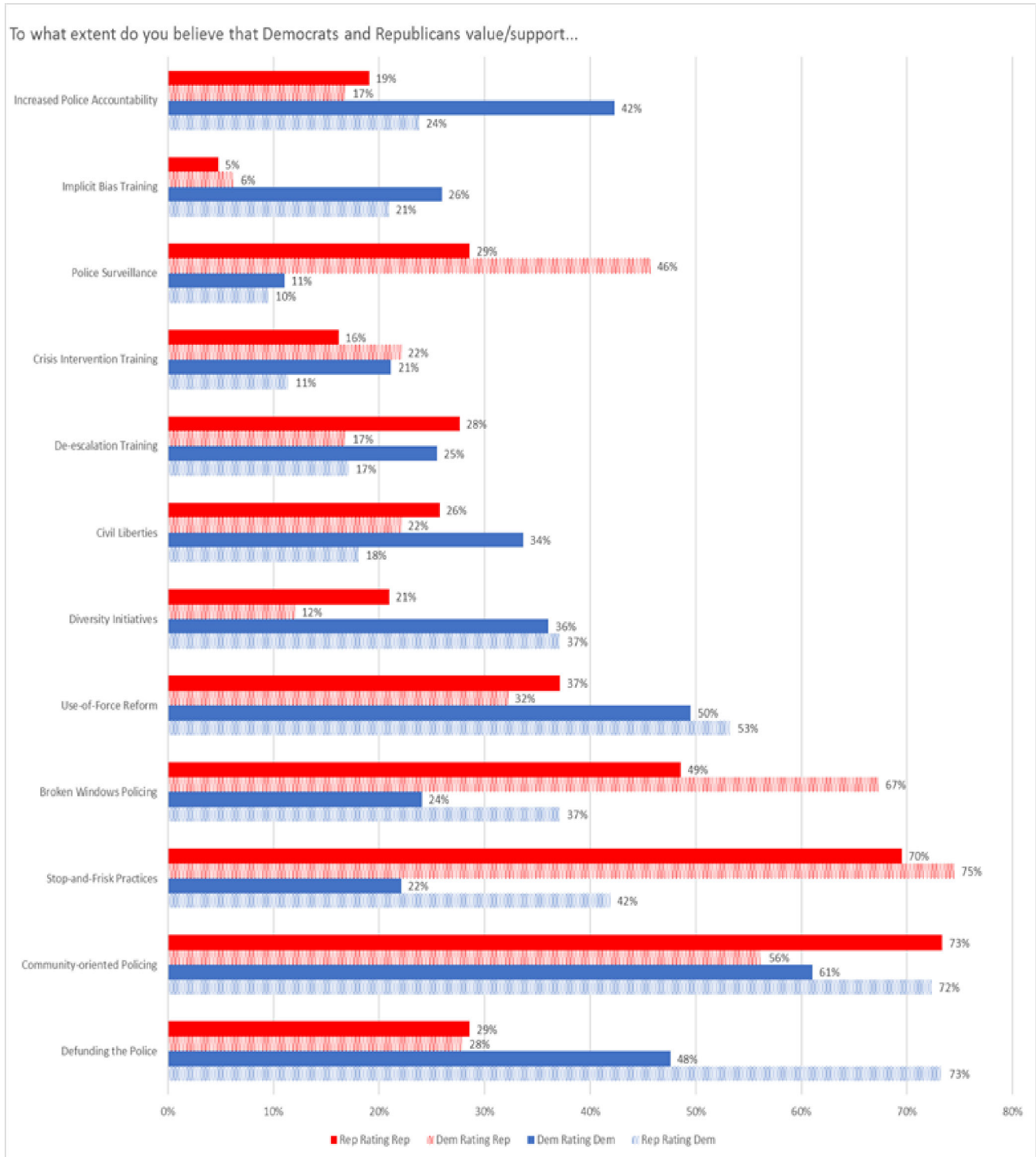


TABLE 8.

Multiple Regression Model With ANOVA Output: Suitability for Employment

Model	<i>R</i>	<i>R</i> ²	<i>F</i>	<i>df</i> ₁	<i>df</i> ₂	<i>p</i>
1	0.16	0.024	19.5	1	784	<.001
2	0.80	0.640	463.7	3	782	<.001
3	0.80	0.640	347.4	4	781	<.001

	Sum of squares	<i>df</i>	Mean square	<i>F</i>	<i>p</i>
Candidate qualifications	1.98	1	1.98	8.82	.003
Candidate affiliation	3.82	1	3.82	17.01	<.001
Participant affiliation	7.87	1	7.86	35.04	<.001
Candidate Affiliation * Participant Affiliation	1.28	1	1.28	5.69	.981
Residuals	175.38	781	0.225		

Note. Type 3 sum of squares.

of P–J than PO– fit, although overlapping confidence intervals suggest this difference should be tentatively interpreted.

The findings of this research support that participants' evaluations of candidates' suitability for the position and their subsequent selection of which candidates to employ in the position were both significantly influenced by their perceptions of the candidates' P–J and P–O fit, and that these perceptions were meaningfully affected by candidates' job-related qualifications as well as the combination of candidates' and participants' political affiliations. To more fully understand how the manipulation of candidates' job-related qualifications and political affiliations directly affected participants' judgment and decision making, two additional analyses were conducted. First, linear regression, with accompanying ANOVA output, was conducted to examine the effects of candidates' qualifications, candidates' political affiliations, and participants' political affiliations on their beliefs about the candidates' overall suitability for the position. Subject variables were entered in Block 1 of the model. The main effect of candidates' qualifications was then entered into Block 2 of the model. Next, candidates' political affiliations and participants' political affiliations were entered into Block 3 of the model. The candidates' political affiliations x participants' political affiliations interaction term was then entered into Block 4 of the model. This approach allowed for an examination of these effects as well as an investigation into the incremental variance combinations of political affiliations account for above and beyond candidates' job-related qualifications.

Results suggest significant main effects for candidates' qualifications, $F(1,755) = 24.70$, $p < .001$, and candidates'

political affiliations $F(2,755) = 8.21$, $p < .001$. However, the main effect of candidates' political affiliations was superseded by a significant candidates' political affiliations x participants' political affiliations interaction, $F(4,755) = 5.81$, $p < .001$ (Table 10). Participants with independent/other political affiliations generally rated both Democratic and Republican candidates similarly in terms of their overall suitability for employment (Figure 5). Democratic participants, however, tended to rate Democratic candidates ($M = 4.11$, 95% CI [3.98, 4.25]) as more suitable than Republican candidates ($M = 4.00$, 95% CI [3.83, 4.18]), $d = .44$, and Republican participants tended to rate Republican candidates ($M = 4.27$, 95% CI [4.09, 4.44]) as more suitable than Democratic candidates ($M = 3.74$, 95% CI [3.60, 3.87]), $d = .27$. Model fit measures suggest that factoring political affiliations, both candidates' and participants', into the model approximately doubled the amount of variance in judgments of suitability that were accounted for by the model above and beyond candidates' job-related qualifications. These findings support that voters' evaluations of candidates are heavily influenced by partisan heuristics but also suggest that voters will consider work-related objective information (e.g., job responsibilities and candidates work-related experiences) when it is provided in the decision context.

Next, the extent to which voters are likely to choose a candidate with lower job-related qualifications because that candidate shares their political affiliation (RQ5) was next examined using a Z-test for the difference between independent proportions. Results suggest that participants were approximately 39% (95% CI [22.77%, 52.22%]) more likely to vote for the candidate with lower job-related qual-

TABLE 9.

Binomial Logistic Regression Model: Employment Decision

Model fit measures						
Model	Deviance	AIC	R^2_{McF}	χ^2	df	p
1	1090	1094	.00	.00	1	1.00
2	1030	1038	0.06	60	3	<.001
3	1029	1039	0.06	60.5	4	<.001
Model comparisons						
	χ^2	df	p			
Model 1 – Model 2	59.99	2	<.001			
Model 2 – Model 3	.55	1	.46			
Model 2 coefficients						
	Estimate	SE	Z	p	Odds ratio	
Intercept	-3.96	.57	-6.90	<.001	0.02	
Participant ID	.00	.00	-0.98	0.33	1.00	
Person–job fit	0.60	0.14	4.25	<.001	1.82	
Person–organization fit	.39	0.12	3.19	.001	1.48	

ifications over the candidate with higher job-related qualifications when the candidate with lower qualifications shared their political affiliations, $\text{Pa-Pb}=.389$, $Z=4.667$, $p < .001$ (Table 11). This finding further highlights the important role partisan heuristics play in shaping personnel selection for elected positions.

DISCUSSION

Organizational scientists have the capacity to meaningfully contribute to police reform in a multitude of ways. The enactment of this capacity, however, will require buy in and support from senior law enforcement leadership. Personnel selection for multiple leadership positions that have been identified as crucial for facilitating police reform (e.g., sheriffs, attorneys general, district attorneys) occurs via local elections. Although personnel selection is considered a “bread-and-butter” issue for organizational scientists (Zickar et al., 2007, p.73), little is known concerning the extent to which our understanding of assessment and decision making for nonelected positions generalizes to, and can subsequently benefit, personnel selection for elected positions (Silvester & Dykes, 2007). This research provides an initial examination of whether the tenets of person–environment (P–E) fit theory, and the associated trends observed in empirical research on personnel selection for nonelected

positions, apply to personnel selection for elected law enforcement positions. Focusing on the elected position of sheriff, findings offer insight into the perceptions of fit that voters form, factors that influence these perceptions, and how voters’ perceptions of fit influence their evaluations of candidates’ suitability for employment and choice of which candidate to hire.

Whereas personnel selection for nonelected positions is typically conducted by organizational insiders who have in-depth knowledge about candidates and the positions for which they are being considered, personnel selection for elected positions is principally conducted by organizational outsiders who are often poorly informed about candidates and the offices they are pursuing (Althaus, 1998; Ashworth & Bueno De Mesquita, 2014; Lupia & McCubbins, 1998). Voters tend to base their selection decisions on partisan heuristics (Dancey & Sheagley, 2013; Lau & Redlawsk, 2001) and have been found to eschew merit-based information in favor of these stereotypical beliefs about political affiliations (Iyengar & Krupenkin, 2018; Iyengar & Westwood, 2015). Given their reliance on value-laden partisan heuristics, whether voters form unique perceptions of candidates’ person–job (P–J) and person–organization (P–O) fit in ways that are commensurate with what has been observed in personnel selection for nonelected positions was investigated first to test the generalizability of P–E fit theory to this con-

TABLE 10.

Multiple Regression Model With ANOVA Output: Suitability for Employment

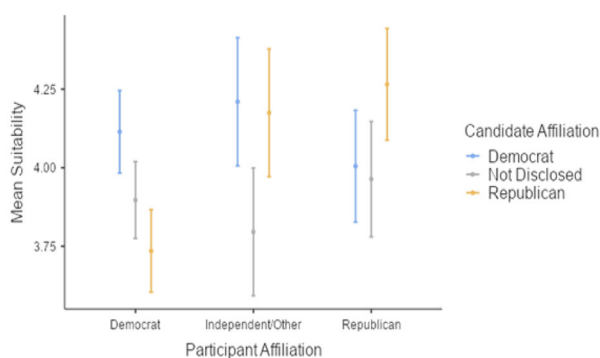
Model	<i>R</i>	<i>R</i> ²	<i>F</i>	<i>df</i> ₁	<i>df</i> ₂	<i>p</i>
1	0.16	0.024	19.48	1	784	<.001
2	0.22	0.050	20.53	2	783	<.001
3	0.26	0.070	9.72	6	779	<.001
4	0.31	0.097	8.30	10	775	<.001

	Sum of squares	<i>df</i>	Mean square	<i>F</i>	<i>p</i>
Candidate qualifications	14.03	1	14.033	24.7	<.001
Candidate affiliation	9.33	2	4.664	8.21	<.001
Participant affiliation	1.3	2	0.651	1.15	0.319
Candidate Affiliation * Participant Affiliation	13.21	4	3.302	5.81	<.001
Residuals	440.24	775	0.568		

Note. Type 3 sum of squares.

FIGURE 5.

Mean Suitability for Employment by Candidate and Participant Political Affiliation



text.

When provided basic information about the position and candidates, participants were found to form unique perceptions of both P–J and P–O fit, and these perceptions of compatibility were distinct from their evaluations of the candidates' overall suitability for employment. These findings are consistent with what has been observed in personnel selection for nonelected positions. Also consistent with research on personnel selection for nonelected positions, participants' perceptions of fit were affected by candidates' job-related qualifications, with variance in these qualifications principally affecting perceptions of P–J fit. Nevertheless, in line with political science research suggesting that voters' are primarily influenced by partisan heuristics, participants' perceptions of both P–J and P–O fit were heavily

influenced by the combination of their political affiliations and the candidates' political affiliations, with model fit indices reporting that approximately twice the variance in perceptions of P–J fit and three times the variance in perceptions of P–O fit was accounted for when these combinations were included in the statistical models above and beyond candidates' job-related qualifications. Insights into why political affiliations affected participants' beliefs about candidates' compatibility with job requirements and organizational culture are provided by the 12 statements about policing that participants rank ordered in terms of the extent to which they believed that Democrats and Republicans value/support them.

Multiple noteworthy differences were observed between what Democrats and Republicans reported as top priorities for their respective political parties. Democrats, for example, were nearly twice as likely to report increased police accountability as a top priority for their party than Republicans. Furthermore, whereas 50% of Democratic voters endorsed use-of-force reform as a top priority of their party, only 37% of Republicans did the same. Republicans, instead, were approximately three to three and a half times more likely than Democrats to report support for broken windows policing and stop-and-frisk practices as top priorities for their party. The results of this exercise also revealed multiple instances wherein voters' beliefs about the top priorities of their own political parties meaningfully differed from nonmembers' beliefs about their parties. For example, Democrats tended to overestimate Republicans in terms of their value/support for police surveillance and broken windows policing, and underestimate them in terms of

TABLE 11.

Z-Test for the Difference Between Independent Proportions: Participants who Voted for Candidate With Lower Job-Related Qualifications by Shared Political Affiliation.

Participant–candidate same affiliation		Participant–candidate different affiliation	
k_a	50	k_a	22
n_a	72	n_a	72
p_a	.694	p_a	.306
$p_a - p_b$.389	95% CI (.227, .522)	
Z	4.667	$p < .001$	

their value/support for de-escalation training, diversity initiatives, and community-oriented policing. Republicans, on the other hand, tended to overestimate Democrats in terms of their value/support for defunding the police, stop-and-frisk practices, and broken windows policing, and underestimate them in terms of their value/support for increased police accountability, crisis intervention training, de-escalation training, and the protection of civil liberties.

In identifying what voters believe are top priorities for Democratic and Republican candidates running for elected law enforcement positions, the results of this exercise provide insight into the partisan heuristics that affect voters' perceptions of candidates' P–J and P–O fit above and beyond their objective job-related qualifications (i.e., education and work experience). Given the outsized influence these heuristics have on voters' evaluations of candidates, discrepancies in several of the trends observed are of particular interest. First, the multitude of discrepancies observed between voters' beliefs about their own political parties and how the political parties are perceived by outgroup members suggests that voters hold a variety of inaccurate views about the extent to which candidates from other political parties value/support police practices. This finding is consistent with research suggesting that political party members commonly hold a variety of misperceptions about opposing party supporters, and that these misperceptions—although associated with partisan affect—largely stem from members lacking information about the out-party (Ahler & Sood, 2018). Second, the range of discrepancies observed within the political parties concerning voters' beliefs about the police practices their own parties value/support suggests that voters' also hold a variety of inaccurate views about the extent to which candidates from their own political parties value/support police practices. Although these discrepancies might reflect geographic differences among participants

that lessen when sampling is contained to voters in specific locales (e.g., urban vs. rural elections), political science research suggests that members of political parties regularly overestimate the level of attitude similarity among their party supporters (Stern, 2020). Together, these findings suggest that personnel selection for elected law enforcement positions would benefit from providing voters with specific information about the police practices that candidates value/support (perhaps even on ballots—i.e., directly in the decision context) rather than having them base their selections on potentially inaccurate political heuristics.

Ensuring that voters' perceptions of candidates' P–J and P–O fit are accurately informed is important, as the results of this research suggest that perceptions of both forms of compatibility significantly influenced voters' evaluations of the candidates' suitability for employment and ultimate choice of which candidate to employ. These findings are consistent with the trends observed in research on personnel selection for nonelected positions. A noteworthy difference observed in this context, however, is the strength of the relationships between perceptions of P–O fit and the outcome measures. Perceptions of P–O fit had as much or more influence on voters' judgments and decisions about candidates as perceptions of P–J fit. This trend is likely attributed to the value-laden nature of political heuristics. Elected law enforcement positions are also unique from those rank-and-file positions that have traditionally been studied in research on personnel selection for nonelected positions in that executive leaders are ultimately responsible for shaping and managing organizational culture. The weight assigned to perceptions of P–O fit might reflect voters' recognition of the important roles elected law enforcement officials play in determining the values that characterize law enforcement agencies.

Conclusions

The results of this research generally support the application of P–E fit theory to personnel selection for elected (law enforcement) positions. Voters' formed distinct perceptions of P–J and P–O fit (RQ1), these perceptions were affected by both the candidates' job-related qualifications as well as the combination of voters' and candidates' political affiliations (RQ2). Voters' partisan heuristics concerning the extent to which Democrats and Republicans value/support police practices were found to vary both within and across political parties (RQ3). Reliance on these heuristics to form perceptions of P–J and P–O fit is concerning as beliefs about both forms of compatibility significantly influenced voters' evaluations of candidates' suitability for employment and choice of which candidate to employ in the position (RQ4), with voters being approximately 40% more likely to endorse the candidate with lower job-related qualifications when that candidate shared their political affiliations (RQ5).

Activists recognize the important roles elected law enforcement officials play in police reform. Their support for initiatives that facilitate change is integral in making reform a reality. The results of this study suggest that the Democratic Party is generally perceived as being more supportive of practices that align with common calls for police reform than the Republican Party. Both Democratic and Republican voters, however, overestimated and underestimated the extent to which members of their own party and the other party value/support a range of police practices. Given these partisan heuristics influence voters' judgment and decision making, communities may be well-served by research (such as this) and awareness campaigns that serve to more accurately calibrate voters' beliefs about the police practices that candidates value/support. Furthermore, having found initial support for the generalizability of P–E fit theory to personnel selection for elected positions, organizational scientists might help to identify ways to more effectively inform voters' perceptions of candidates' P–J and P–O fit through targeted messaging strategies and/or direct placement of critical information in the decision context, for example.

Limitations and future directions. There are several limitations to this research that should be acknowledged. First, sheriff is only one of several law enforcement positions for which personnel selection is conducted via election. District attorneys and state attorneys general are also elected positions that are recognized to play important roles in police reform. It is encouraged that future studies examining the factors that influence personnel selection for elected law enforcement positions include these jobs in their designs. Second, participants in this study were provided brief resumes of the candidates to review before making their assessments/decisions. Although these resumes were modeled after those found online for sheriff candidates, voters

are likely to vary in their knowledge of the candidates, with some having greater knowledge than the resumes provided and others having less. Future research is encouraged to move beyond paper people and examine voters' knowledge and beliefs about real-life job candidates. The list of 12 statements about policing that voters rank ordered in terms of the extent to which they are believed to be prioritized by Democrats and Republicans also offers limited insight into the full range of issues affected by politics that influence personnel selection decisions. Future research is encouraged to take a more inductive approach to examining these issues.

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Appendix A

Sheriff Job Description

The sheriff is elected for a term of 4 years and fulfills the following duties:

1. Supervises a force of deputies and other employees of the sheriff's department
2. Enforces the law on a county level
3. Oversees the distribution of funds for undercover operations
4. Acts as the county jail's warden; accountable for the custody and care of prisoners
5. Supervises operations of the county jail
6. Acts as Chief Security Officer when County Courts are in session
7. Reviews, as necessary, evidence, daily patrol activity logs, information on division activities, investigations, effectiveness of procedures, efficiency of subordinates, and so forth
8. Performs training sessions at police academies or other training facilities
9. Takes field command in emergency situations
10. Takes disciplinary action for employees when necessary
11. Conducts public information sessions on law enforcement matters as needed
12. Assists with personnel problems within the division
13. Develops procedures and guidelines for officers based on legal material and law enforcement experience
14. Performs firearms training and operational preparedness
15. Prepares the budget for the sheriff's office
16. Makes requests for services and equipment, justifying purchases as needed

Appendix B

Candidate: BRIAN JOHNSONSummary

Brian Johnson is a chief deputy sheriff with 28 years of experience in law enforcement, including 7 years as a commanding officer. He holds a bachelor's degree in Criminal Justice and has earned 4 advanced professional certifications from the National Sheriffs' Association.

Experience**Chief Deputy Sheriff (June 2013 – Present)**

- Directly supports the sheriff and aids in training at police academies.
- Supervises a force of officers and deputy sheriffs who investigate major crimes throughout the county.
- Provides for public safety by maintaining order, protecting people and property, responding to emergencies, enforcing laws, and promoting good community relations.

Deputy Sheriff (March 2007 – June 2013)

- Arrested people for suspected crimes, including burglary, theft, drugs, larceny, and homicide.
- Conducted investigations of crimes and serious accidents that may have involved criminal conduct.

Police officer (May 1992 – March 2007)

- Patrolled assigned area to prevent crimes and enforce laws
- Responded to emergency calls and routine complaints and disturbances

Education

- BA, Criminal Justice–Concentration in Law Enforcement

Skills

- Special task forces
- Crime trend analysis
- Advanced evidence collections
- Civil law enforcement

National Sheriffs Association Certifications

- Advanced Criminal Investigation Techniques
- Maintaining Homeland Security and Prevention of Terror Attacks
- De-Escalating Domestic Violence Incidents
- Emergency Response: Active Shooter Events

Candidate: GARY WILLIAMSSummary

Gary Williams is a deputy sheriff with 20 years of experience in law enforcement, including 5 years as a commanding officer. He holds a bachelor's degree in General Business and has earned 2 advanced professional certifications from the National Sheriffs' Association.

Experience**Deputy Sheriff (February 2020 – Present)**

- Coordinates with other deputy sheriffs to enforce the law throughout the county.
- Supports the SWAT unit of the Special Operations Division.
- Identifies, pursues, and arrests suspects and perpetrators of criminal acts.

Police Colonel (March 2015 – February 2020)

- Directed day-to-day operations for a local police bureau.
- Supervised investigations of criminal activity and misconduct.

Police officer (May 2000 – March 2015)

- Patrolled precincts to prevent crime and enforce laws.
- Responded to emergency calls and routine complaints and disturbances.

Education

- BA, General Business

Skills

- Operations management
- General personnel assessment
- Safety and security
- Criminal law enforcement

National Sheriffs Association Certifications

- Law Enforcement Leadership
- Maintaining Homeland Security and Prevention of Terror Attacks

Appendix C

Defunding the police (divesting funds from police departments and reallocating them to non-policing forms of public safety and community support, such as social services, youth services, housing, education, healthcare and other community resources).

Community-oriented policing (a philosophy of full-service policing that is highly personal, where an officer patrols the same area for a period of time and develops a partnership with citizens to identify and solve problems).

Stop-and-frisk practices (temporarily detaining, questioning, and at times searching civilians and suspects on the street for weapons and other contraband based on reasonable suspicion)

Broken windows policing (targeting minor crimes, such as vandalism, loitering, public drinking, jaywalking, and fare evasion to create an atmosphere of order and lawfulness that prevents more serious crimes from occurring)

Use-of-force reform (implementing new policies and procedures that prioritize the sanctity of life, put limits on the type of force officers can use and under what circumstances, and require robust data collection and reporting).

Law enforcement diversity initiatives (programs designed to help law enforcement agencies recruit, hire, retain, and promote officers that reflect the diversity of the communities they serve)

The protection of civil liberties (the guarantees and freedoms that governments commit not to abridge, either by legislation or judicial interpretation, without due process such as freedom of expression, freedom of assembly, the right to privacy, and the right to equal treatment under the law).

De-escalation training programs (specialized programs that teach officers how to calmly communicate with agitated people in order to understand, manage and resolve their concerns to reduce their agitation and potential for future aggression or violence)

Crisis intervention training programs (specialized programs that aim to reduce the risk of serious injury or death during an emergency interaction between persons with mental illness and police officers).

Police surveillance programs (programs and techniques for intelligence gathering, prevention of crime, the protection of a process/person/group/object, or the investigation of crime)

Implicit bias training programs (programs designed to expose officers to their implicit biases about race, provide tools to adjust automatic patterns of thinking, and reduce discriminatory behaviors).

Increased accountability measures (holding individual police officers, as well as law enforcement agencies, more responsible for effectively delivering basic services while treating all citizens fairly and within the bounds of law).

There's (rarely) a new Sheriff in town

The incumbency advantage for county Sheriffs

Michael Zoorob

November 12, 2019

Abstract

County sheriffs are prominent elected officials in almost all states, with typical duties including jail operation, responding to 911 calls, and making arrests. Unlike other law enforcement agencies, sheriffs enjoy considerable discretion in employment and policy decisions and do not report to a mayor or other higher official. Instead, the voters serve as the chief mechanism for accountability, and Sheriff associations often argue that their democratic selection makes them uniquely answerable, impartial, and authorized to restrain other parts of government. Using an original dataset of more than 5,500 Sheriff elections from across the US, I produce the first estimates of the levels and variation of the incumbency advantage for Sheriffs. In so doing, I show that the average tenure of elected Sheriffs far exceeds the average tenure of appointed police chiefs. In light of widespread reports of misconduct by elected sheriffs and their employees, these results suggest that elections may not be sufficient to produce responsible local government.

I'm answerable to the people. I have a face and a name. Try asking the federal government for a face and a name.

Sheriff Brad Rogers, Elhart County, Indiana

1 Introduction

In the United States, law enforcement leaders are generally appointed by politicians (typically called police chiefs or commissioners) or directly elected by voters (Sheriffs). Greg Champagne, former president of the National Sheriffs Association and Sheriff of St. Charles Parish explains the difference: "So as opposed to a sheriff being appointed by a mayor or city council and being beholden to that city council, we are beholden to the people. We see our bosses as the citizens that elect us" (Neuhauser, 2016). In theory, Sheriffs should be uniquely accountable by virtue of their direct link to the (voting) public. Many Sheriffs (so-called members of the Constitutional Sheriffs Movement) take their direct election and constitutional mandate as signifying supreme authority over the county, even above state or federal law (Pishko, 2019a).

Yet in practice, Sheriff misconduct is widespread (Yant, 1992; Greenblatt, 2018; Magary, 2018; Pishko, 2019b). According to the National Police Misconduct Reporting Project, there were 97 reported incidents of misconduct in Sheriff's Offices over 2015-2016, 68 of which personally implicate the elected Sheriff.¹ A California newspaper writes "The county sheriff is the problem child among California elected officials. No office is less accountable, or more reliable in producing scandal" (Mathews, 2019). In South Carolina, nearly one in four Sheriffs have been accused of breaking laws, ranging from driving drunk to corruption (Bartelme and Cranney, 2019). Sheriff misconduct is so pervasive that can be hard to miss. An exploration of campaign financing in Sheriff races unwittingly discovered "how often sheriffs were found guilty of crimes during or after their careers as sheriff, for offenses ranging from corruption and tax evasion to indecent exposure and murder" (Clark, 2017).

If the Sheriff is directly accountable to the people, why is he so-often badly behaved?² Answering this question requires a systematic examination of electoral supervision for Sheriffs – of what kinds of bosses are citizens. But because there is no centralized source of local election data no such analysis has yet been done. I overcome these limitations by collecting and analyzing a novel dataset of more than 5,500 Sheriff elections from across the US to provide the first systematic account of the electoral context for county Sheriffs.

¹Author's calculations from data provided by the (since discontinued) Project. My enthusiastic thanks to Jonathan Blanks for providing these data. Such reports are not new; Yant (1992) describes dozens of such scandals. In Georgia alone, 21 Sheriffs were arrested between 1981 and 1984, mostly for profiting from drug trafficking (Schmidt, 1984). 9 more were arrested by 1997 (Sack, 1997) and several counties have since experienced election irregularities like fraud (Manley, 2010) or violence (Sack, 2001).

²Of the more than 3,000 Sheriffs in the US, about 40 are women (Neuhauser, 2016). I deliberately use masculine pronouns here and throughout to reflect this gross discrepancy in representation.

The analysis proceeds in three parts. First, I overview the overall levels of competitiveness and incumbency in Sheriff elections, important quantities for existing legal and political debates (Singer and Hoeffel, 2016; Tomberlin, 2018). Second, comparing the subsequent electoral performance of candidates who barely won with those who barely lost the previous election, I show that incumbent Sheriffs are about 45 percentage points more likely to run and win the next election. Third, I show how the incumbency advantage provides some insulation against national partisan swings and contributes to a “delayed realignment,” with Democratic Sheriffs continuing to hold Office in nationally heavily-Republican parts of the South and Republicans in New England. Finally, I contextualize these findings by benchmarking Sheriffs with other elected offices and with their appointed police chief counterparts. I find that the Sheriff incumbency advantage far exceeds that of other local offices and even members of Congress. And, by virtue of the large incumbency advantage and propensity to run for re-election, Sheriffs stay in office for more than twice as long as police chiefs – about 11 years, on average, compared to 4 years for chiefs. Taken together, these findings paint a puzzling picture of politician Sheriffs who are far more stably situated than their appointed counterparts.

2 Setting

County Sheriffs are elected in forty-states³ and employ about 350,000 people (sworn or civilian), representing about 30% of all personnel employed by policing agencies (Reaves and Hickman, 2008). But because a few large urban police departments comprise a vastly disproportionate share of police officers, Sheriffs Offices comprise the largest law enforcement agency in two-thirds of counties in the United States (Reaves and Hickman, 2008). While responsibilities vary considerably between and within states, Sheriffs typically perform bailiff duties, transport inmates, operate jails, and enforce laws, especially but not always in rural areas. Jail operation is one extremely common role for Sheriffs, who operate 85% of jails in the United States, giving them control over lucrative contracts and employment. The combination of direct election, variegated responsibilities, and direct control over important government functions make the Sheriff’s Office a “distinctive policing modality” (Falcone and Wells, 1995) and the Sheriff “a figure of almost mythical proportion” (Schmidt, 1984). Indeed, at least in some parts of the country, residents are 40 percentage points more likely to recall the name of their Sheriff than their state legislators or leaders of the state Congress (Hood, 2018).

The Sheriff has a rich history, having evolved from a now-defunct English Office of the “shire reeve” that took root in colonial America. Thomas Jefferson called the Sheriff “the most important of all the executive officers of the county”, necessitating that it be an elective office (Jefferson, 1816, 11,13). Previously appointed by state governors, the Sheriff became elected during the Jacksonian period, where reformers pushed for de-

³The exceptions are Alaska, Connecticut, Hawaii, and Rhode Island.

mocratizing reforms in constitutional conventions. State constitutions continue to empower Sheriffs with their authority and autonomy so long as they win elections (Falcone and Wells, 1995; Tomberlin, 2018). Sheriffs also have powerful lobbying associations to defend the powers of their Office and push policies in the spheres of criminal justice, gun control, and corrections (Singer and Hoeffel, 2016).

In many parts of the US, Sheriffs remain among the most powerful politicians: “the most significant and powerful” of Florida’s constitutional offices (Sherwood, 2008, 57); in South Carolina, “the closest thing to a Roman emperor tolerated by state law” (Crangle, 2015); “[I]n Louisiana, Sheriffs have extraordinary clout” (Houppert, 2013). The National Sheriffs Association, in arguing for preserving the elective nature of the Office, writes that “In many counties the sheriff is the single most powerful individual and institution” (National Sheriffs Association, N.d.). Sheriffs have wide latitude over hiring and firing decisions, especially of deputies (Fanto, 2010; McCarty and Dewald, 2017), and the personal views of Sheriffs shape policymaking in important areas such as immigration (Farris and Holman, 2017) and domestic violence (Farris and Holman, 2015). Despite the power and pervasiveness of Sheriff’s Offices, there has been surprisingly little scholarly attention devoted to Sheriffs as both elected politicians and as administrators of law enforcement bureaucracies (Jones, 2008; Farris and Holman, 2015).

With great power comes great opportunity for scandal. And Sheriffs frequently make their way into the headlines for eccentric behavior. In Arizona, longtime Maricopa County Sheriff Joe Arpaio forced inmates, amid a heat wave, to sleep outside in a “Tent City” he jokingly called a concentration camp (Weill, 2017). He later had his criminal contempt of court conviction for defying court orders to stop racial profiling against Latinos pardoned by President Trump (Chappell, 2017). Milwaukee County’s David Clarke attracted notoriety for his frequent appearances on Fox News comparing Black Lives Matter to ISIS and telling residents to arm themselves rather than call 911 – all while registered and elected repeatedly as a Democrat (Maas, 2017). Meanwhile, the jail his Office managed experienced multiple deaths due to staff negligence; one death occurred because staff neglected to provide an inmate water for seven consecutive days (Zoukis, 2017). The Sheriff of Trinity County, California walked off the job and moved to Oregon – while continuing to collect a salary – in protest of the county’s approach to regulating marijuana growing. The head of the County Board of Supervisors lamented that they couldn’t do anything about it: “We looked at state law. He doesn’t sit under us, so we really don’t have any authority” (Sabalow and Reese, 2018).

Such scandals have ignited political debates over replacing the Sheriff with an appointed position in many jurisdictions. These debates are quite old (Moley, 1929) but continue to occur with some frequency (Smith, 2018; McCoy, 2018). Voters abolished the elected Sheriff Office in Connecticut in 2000 after a series of scandals (Hoffman, 2000). In 2018, Florida voters approved a constitutional amendment pushed by the Florida Sheriff Association to require Miami-Dade county to elect a Sheriff (which became an appointed position in

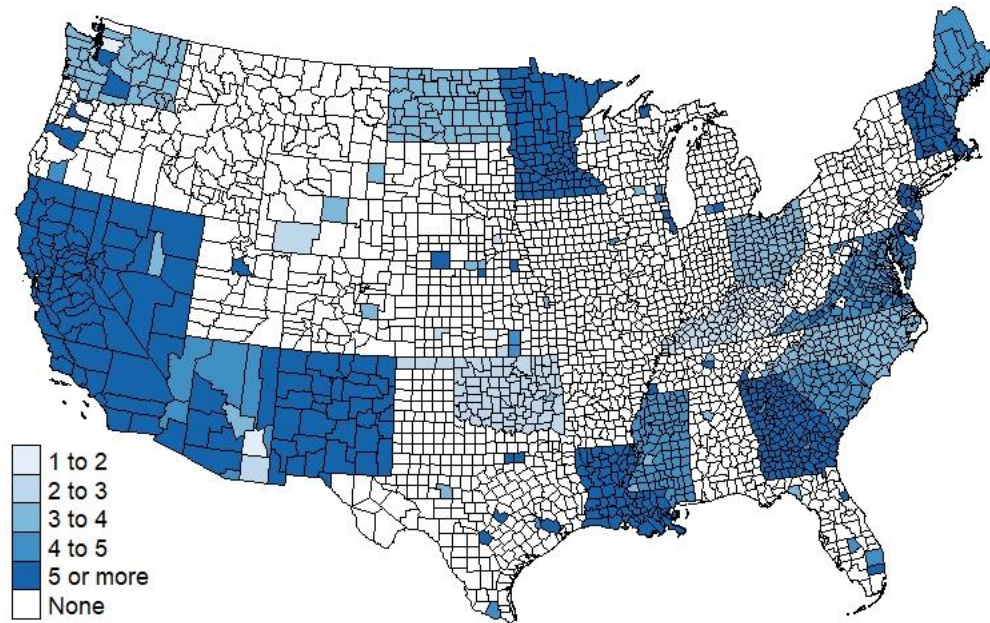
the 1980s). Pierce County and King County in Washington state and Multnomah County in Oregon have also switched between electing and appointing the office. Local media often feature arguments favoring switching to appointing the Sheriff where the position is presently elected (Smith, 2018; Mathews, 2019) or to electing Sheriffs where the position is appointed (McCoy, 2018). A systematic examination of Sheriff elections can help inform these debates, but (to my knowledge) none has yet been undertaken, probably because no centralized repository of county-office electoral data exists.

3 Data and Methods

Data

To fill this gap, I compiled extensive data on Sheriff elections from a variety of sources. Data from Georgia, Kentucky, Louisiana, Mississippi, Massachusetts, Maine, Nevada, New Mexico, New Hampshire, North Dakota, Ohio, Oklahoma, and Vermont, Virginia, and Washington were, for some years, obtained through online repositories from the Secretary of State's Office, supplemented by reviewing scanned books of results (for Massachusetts), elected official rosters (Oklahoma), State Archives (Georgia), and private correspondence with the Secretary of State (Maine, Vermont) or county clerks (Nevada). Data from Arizona, Florida, Kansas, Oregon, Utah, Tennessee, Texas, Wyoming, and Wisconsin was collected from county websites. Data for New Jersey was primarily collected from the *mycampaigns* website and supplemented by state electoral results. In Louisiana, Oklahoma, and Florida, uncontested elections do not appear on the ballot, so data on these had to be collected separately from candidate filings or rosters. The final dataset comprises 5,604 sheriff elections from 1303 counties (Table A1). In sample, most counties hold partisan elections, while elections in California, Minnesota, Nevada, North Dakota, Oregon and Somerset County (Maine) are nonpartisan. Only New Mexico and Telfair County, Georgia have term limits (two consecutive terms). Electoral data are displayed geographically in Figure 1.

Figure 1: Number of General Elections by County



4 Results

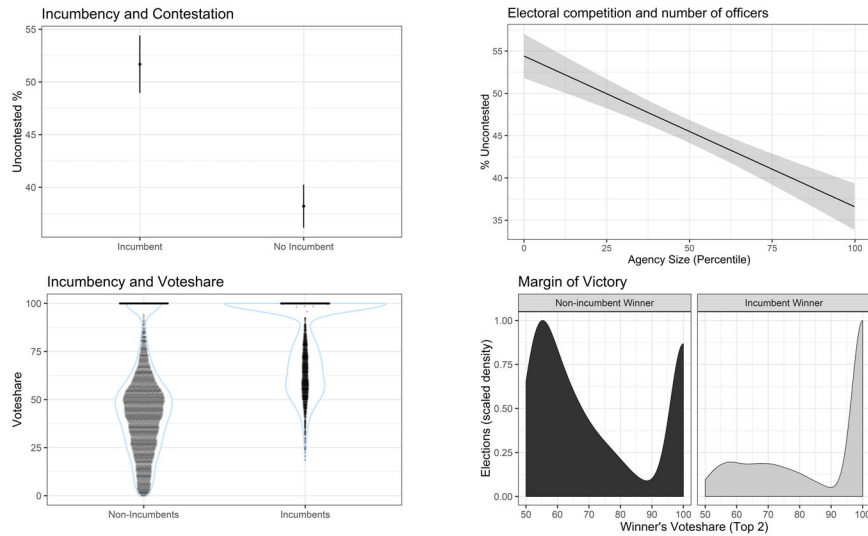
4.1 Electoral Context: Contestation, Incumbency, and Margin of victory

I first use these data to provide a broad characterization of the electoral context for Sheriffs. I look at three main facets of Sheriff elections: contestation, incumbency, and margin of victory.

A first-order question about Sheriff elections is their degree of competitiveness. Competitiveness minimally requires the presence of multiple candidates – that elections are contested. In my sample, about 45% of elections are uncontested, meaning only one candidate ran. Elections held on the Presidential cycle are most likely to be uncontested (60%), compared to 45% in midterm years and 31% in odd-numbered years. Rates of uncontestation are similar in partisan (45%) and nonpartisan (49%) elections. Incumbency also conditions levels of contestation. About 31% of open-seat races are uncontested, compared to around half of incumbent races (Figure 2; top left). Sheriffs Departments which employ more sworn officers are more likely to have contested elections, with just 35% of elections for the biggest agencies being uncontested compared to about 55% of smallest agencies (Figure 2; top right).

Incumbents are pervasive in Sheriff elections, with 73% of races featuring an incumbent running for re-election. Conditional on running, about 90% of incumbents win re-election. Incumbents also tend to win more decisively (by bigger margins) than non-incumbents (Figure 2; bottom right.)

Figure 2: Uncontested Elections by Incumbency



4.2 Incumbency Advantage

I quantify the incumbency advantage using a regression discontinuity – the methodological gold-standard in this literature (Lee, 2008; Trounstine, 2011; de Benedictis-Kessner, 2018). Using this approach, the subsequent electoral performance of incumbents who barely won their election is compared with the subsequent electoral performance of bare losers. Within this narrow threshold of bare winners and losers, a candidate’s incumbency is as-if randomly assigned, enabling causal inference of the incumbency’s electoral benefits. To address the potential bias of strategic retirement, the probability of running and winning office – rather than observed vote shares – is used to measure electoral performance.⁴ Formally, I estimate the following local-linear regression equation:

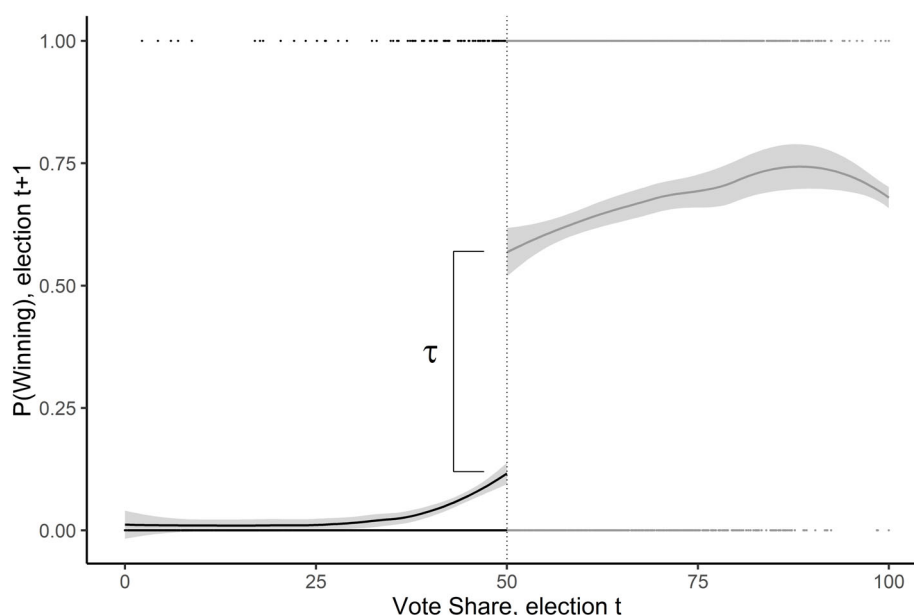
$$P(\text{Victory}, t + 1)_i = \alpha + \beta_1(X_i - c) + \tau D_i + \beta_2(X_i - c)D_i + \epsilon_i$$

where i denotes candidates, X_i represents candidate i ’s vote share in election t , c is the narrow bandwidth denoting close elections, α is an intercept, β_1 is the linear relationship between voteshare in the previous election and subsequent electoral performance for bare losers, β_2 is the linear relationship between lagged vote share and subsequent electoral performance for bare winners, D_i is an indicator variable equal to 1 if candidate i is an incumbent (when $X_i > 50$), and ϵ_i represents an error term clustered by candidate.⁵ τ represents the effect of incumbency – the instantaneous change in the probability of running and winning the

⁴Incumbents who know that they will lose often choose not to run for re-election. Hence, an analysis of observed voteshare would be upwardly biased by data censoring of weak incumbents.

⁵The IK-bandwidth is used to determine the value of c and a triangular kernel weights observations proportional to the closeness of the first election. Model estimation is implemented via the *rd* package in R.

Figure 3: Visualizing the Incumbency Advantage for Sheriffs



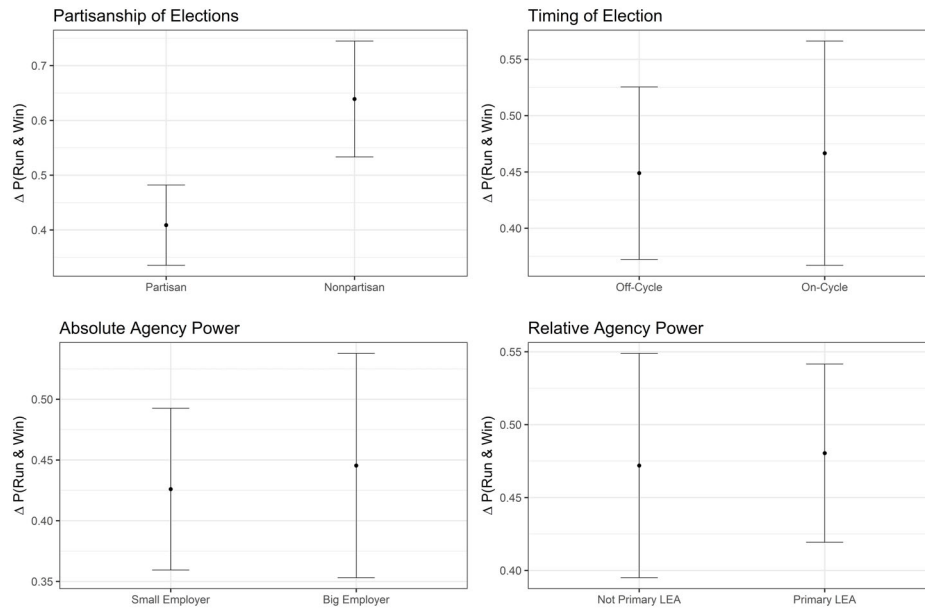
subsequent election. An incumbency advantage predicts that τ would be large and positive, meaning that a candidate who barely won election t has a much higher probability of winning the subsequent election $t + 1$ than a candidate who barely lost election t .

Figure 3 visualizes these quantities using the full electoral sample. Each point represents a candidate whose share in election t forms the x-axis and whose subsequent electoral performance – 1 if she ran in and won the subsequent election and 0 otherwise – determines the location on the y-axis. The abrupt jump – labeled τ – represents the incumbency advantage. Formally implementing the regression discontinuity yields an estimated incumbency advantage of a 45 percentage point increase in the probability winning the next election at the IK bandwidth. This standard error for the estimate was 2.97, indicating a precise estimate for the incumbency advantage ($p < 0.001$).

Institutional features of the Sheriff’s Office may condition the size of the incumbency advantage. I analyze three factors indicated in previous scholarship as potential moderators of the incumbency advantage: 1) the presence of party labels on the ballot; 2) the concurrent timing of Sheriff and Presidential elections (i.e., “on-cycle” and “off-cycle” elections); and 3) the size and importance of Sheriff Offices (defined more precisely later). To do this, I estimate the incumbency advantage on subsets of elections differentiated by the partisanship, timing, or size of the Office and compare these estimates with one another (Figure 4).

The first institutional feature I explore is whether the Office is partisan or non-partisan (Figure 4; top left). A very old literature suggests that when partisan labels are absent from the ballot, voters have less information at their disposal, making incumbency a more powerful signal (Gilbert and Clague, 1962; Schaffner, Streb

Figure 4: Institutional Moderators of the Incumbency Advantage



and Wright, 2001). Indeed, incumbents receive a boost of about 63 percentage points in nonpartisan contests and 41 percentage points in partisan contests ($p < 0.001$).⁶ A second feature identified by scholars is election timing, with the incumbency advantage thought to be larger when elections are "on-cycle" with the President's election because on-cycle electorates know less about downballot races and rely more on incumbency (de Benedictis-Kessner, 2018). However, the incumbency advantage for Sheriffs does not seem to differ substantially by the timing of elections (Figure 4; top right). In contrast to de Benedictis-Kessner (2018)'s results on mayors, I find that the incumbency advantage for off-cycle races is slightly larger than for on-cycle races (45.5 versus 41.8 percentage points) but this difference is statistically indistinguishable from zero ($p \approx 0.57$). A third institutional feature that may moderate the incumbency advantage is the size or importance of the Office, as more important offices have more resources with which to cultivate a personal brand and provide electoral insulation from outside factors (Berry, Berkman and Schneiderman, 2000; Ansolabehere and Snyder Jr, 2002). At the same time, however, larger offices might have more individuals with law enforcement experience who could potentially challenge the Sheriff, muddying the usual theoretical expectations. To gain some analytical leverage on this tradeoff, I operationalize the power of the office in national absolute and relative local terms. First, I operationalize Sheriffs as powerful in national terms if the Office employs more than the median agency's number of sworn officers. Next, I categorize Sheriff Offices as relatively powerful if those Offices employ more sworn officers than any other law enforcement agency in the county.⁷ The results

⁶To calculate p-values for the differences between coefficients, I use the formula provided by Clogg, Petkova and Haritou (1995)

⁷Ties are broken first by total employment (sworn officer and civilian) and any remaining ties are broken by the agency budget.

are shown in the bottom row of Figure 4. Sheriffs from bigger agencies in absolute employment terms do not enjoy a greater electoral advantage than those from smaller agencies (43.3 vs 41.3; $p \approx 0.73$). However, “relatively powerful” Sheriffs – those who are the primary law enforcement agency in the county – enjoy a larger incumbency advantage (49 versus 36.1 points), a statistically reliable difference ($p \approx 0.05$).

4.3 Partisan landscape

In recent decades, American politics has become increasingly nationalized: party brands hold similar meanings across space, political conflict resembles similar issues, and evaluations of the President shape voting down the ballot (Hopkins, 2018). With increasing nationalization, the “personal vote” – that is, vote share above what one would expect given a district’s ideological leaning – in US House elections has eroded (Jacobson, 2015) and voting in state offices has increasingly tracked voting for the President (Sievert and McKee, 2019). Less is known about the extent to which these nationalizing patterns have trickled down to local races. I use Sheriff electoral data to provide insight into two basic questions: First, to what extent does national partisanship predict county Sheriff partisanship? Second, to what extent are local incumbents insulated from national partisan swings?

Figure 5 provides an overview of the partisan landscape for Sheriffs. The top left figure is a scatterplot of Republican Presidential vote share on the horizontal axis against Democratic Sheriff voteshare on the vertical axis. Those points falling in the top right (Republican President, Democratic Sheriff) and the bottom left (Democratic President, Republican Sheriff) quadrants represent electoral incongruence between national partisanship and Sheriff partisanship. The top right plot summarizes this by showing the proportion of Sheriffs who are Democrats and Republicans across county Presidential voting patterns.⁸ The bottom right plot shows, for each of 12 states with partisan Sheriff elections, the proportion of counties which elected Democratic Sheriffs in the most recent election alongside the proportion of counties which supported the Democratic Presidential candidate in 2016. For many states, the partisan composition of Sheriffs resembles national voting patterns from previous decades: in Louisiana and Mississippi, a majority of counties elected Democratic Sheriffs even while very few voted Democratic at the Presidential level in 2016; in Vermont and Massachusetts, the number of Republican Sheriffs greatly exceeds 2016 Trump counties.

To formalize these analyses, I estimate two statistical models. First, I estimate the relationship between Presidential and the probability that a given Sheriff candidate wins – allowing this relationship to vary by incumbency – in a regression model with county and year fixed-effects. The results of this model, shown in the bottom left plot of Figure 5, indicate that while a 10 percentage point swing to the President of the opposite party reduces the probability of a Sheriff candidate winning by about 8 percentage points if he is not an

⁸Nearest or nearest-prior Presidential elections are used to determine the Presidential voting pattern.

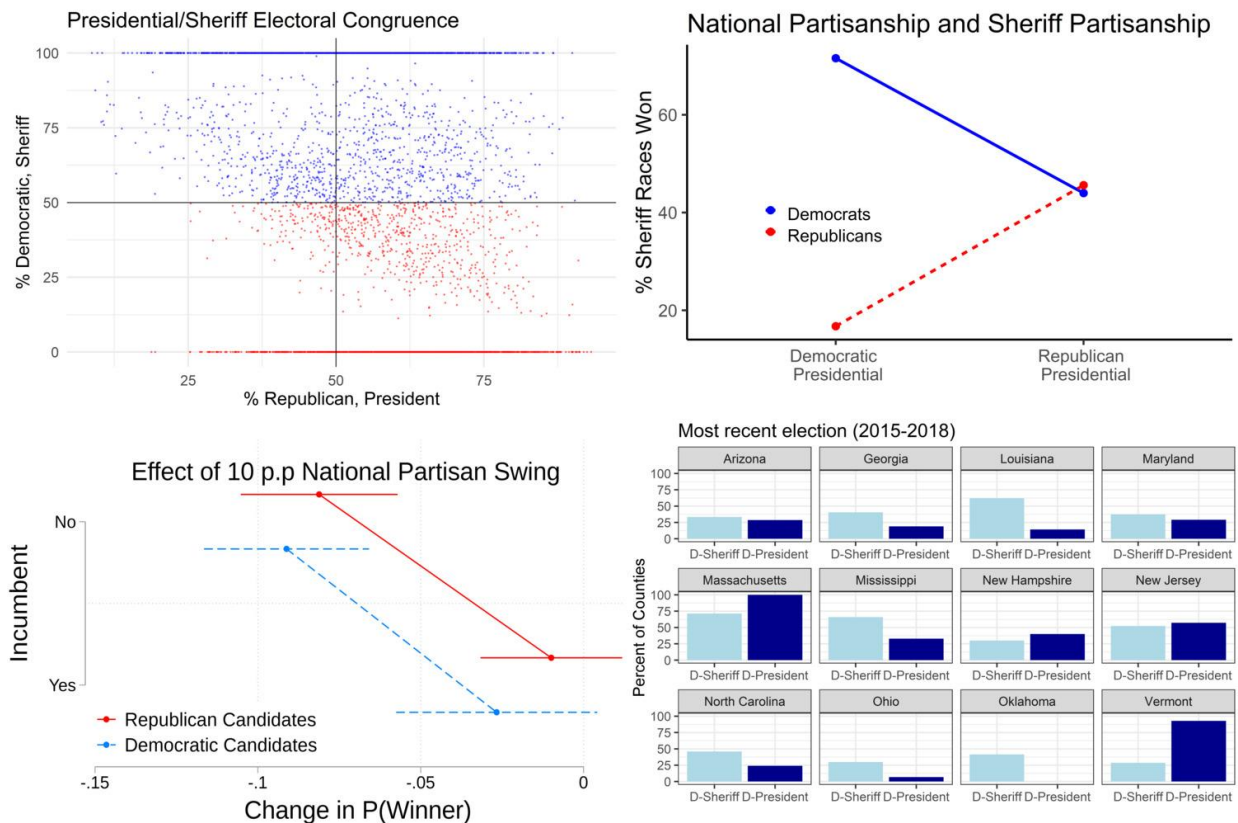


Figure 5: This panel illustrates some key features of the partisan landscape of county Sheriffs. The top left plot arranges partisan county elections according to their Democratic voteshares for Sheriff (y-axis) and President (x-axis). The top right plot shows the proportion of Sheriff races accruing to Democratic or Republican candidates conditional on the county's Presidential winner, indicating that Democrats win about 80% of Sheriffs races in county's which preferred Democratic Presidential candidates and about 50% of Sheriff races in counties preferring Republican Presidential candidates. The bottom left plot Presidential shows the marginal effects of a 10 percentage point swing away from a Sheriff candidate's party, which is attenuated considerably if the Sheriff candidate is the incumbent. The bottom right panel juxtaposes the share of counties with Democratic Sheriffs with the share of counties which voted Democratic in the 2016 Presidential election (dark blue) in 12 states.

incumbent, this relationship is much weaker – at around 1 percentage point – if he is the incumbent. Second, I calculate the Gelman-King estimator of the “personal vote” for incumbents (Gelman and King, 1990). To do this, Democratic Sheriff vote share is regressed on a lagged indicator of equal to 1 if a Democrat previously held the seat, a lagged measure of Democratic vote share, and an incumbency variable equal to 1 if a Democratic incumbent is running, -1 if a Republican incumbent is running, and 0 if no incumbent is running. The coefficient in the incumbency variable represents the average vote share boost accruing to incumbents. The resulting “personal vote” estimate is about 18.8% – far higher than the personal vote for members of Congress, which peaked at around 12% in the mid-1980s (Jacobson, 2015).

A strong incumbency advantage underlies this “delayed re-alignment.” Incumbent Sheriffs remain insulated to some extent from national partisan swings and retain a large “personal vote.” At the same time, however, Presidential voteshare has become increasingly informative of county Sheriff partisanship. Among the 300 counties for which I have data spanning multiple decades, the share of counties whose Sheriff partisanship did not match their presidential partisanship declined from 53% in the 2000s to 35% in the 2010s. And the association between county Presidential and Sheriff voteshare climbed from about 0.8 to 1.2 between these decades, suggesting an increasing level of congruence over time ($p < 0.01$). Ultimately, Sheriff races are nationalizing but on a delayed timeline compared to Congressional elections. While incumbents enjoy some buffer from partisan swings, when they retire, they are often replaced by new candidates who share the county’s Presidential partisanship.

5 Contextualizing Sheriffs

5.1 The Incumbency Advantage for Sheriffs and other offices

Scholars have documented an incumbency advantage for various other offices using similar techniques. Figure 6 plots estimates for these offices alongside my main estimate for Sheriffs. Interestingly, the estimate for Sheriffs – 45 percentage points – exceeds all other offices, comparing with 43 points for federal representatives (Lee, 2008), 37 points for all Mayors (de Benedictis-Kessner, 2018), 33 points for partisan Mayors (Ferreira and Gyourko, 2009), 32 points for city councilors (Trounstine, 2011), and 30 points for state representatives (Uppal, 2010). A natural question for future research is why offices vary so dramatically in the degree of incumbency advantage. For now, I will offer some potential explanations for why the incumbency advantage for Sheriffs is especially big.

Compared to many other local officials, Sheriffs enjoy considerable name recognition (Hood, 2018). But the chief advantage in the Sheriff’s pocket is his personal control over a large portion of county employment

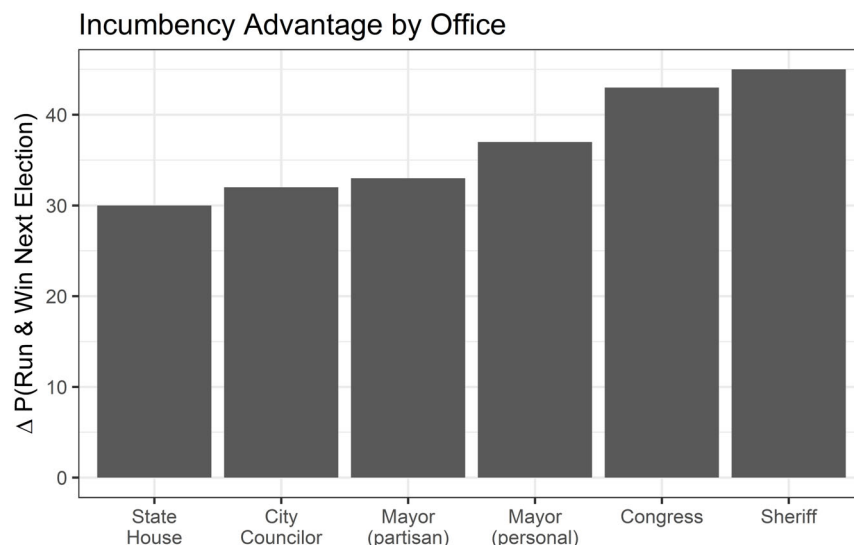


Figure 6: The incumbency advantage measured by the increased probability of running and winning the subsequent election for marginally-victorious candidates is about 45 percentage points for Sheriffs, 43 points for federal representatives (Lee, 2008), 37 points for Mayors (de Benedictis-Kessner, 2018), 33 points for partisan Mayors (Ferreira and Gyourko, 2009) 32 points for city councilors, (Trounstine, 2011), and 30 points for members of state legislatures (Uppal, 2010).

(Hoffman, 2000; Fanto, 2010). Sheriffs enjoy extensive authority in hiring and firing of deputies (Burke, 2000; Berry, 2001). State Supreme Court cases in both North Carolina and Virginia have found that Sheriffs exercise nearly "unfettered discretion" in employment decisions, including firing deputies who do not give money to their re-election campaigns (Austin, 2015). Sheriffs can pressure deputies to give time and money to the Sheriff's re-election campaign through promotion and the sticks of demotion, suspension, and firing (Yant, 1992; Baker, 2001; Agar, 2008; Ley and Matray, 2011; Mahr and Gutowski, 2011). The Sheriff can thus count on a cadre of appointees to support his re-election. Given these incentives, deputies can be highly creative in their support. *Rossignol v. Voorhaar* (2003) describes an instance of a Sheriff's deputies collecting and incinerating all issues of a newspaper critical of their employer on election day.

The advantages of this control over employment is compounded by the limited supply of candidates who can run for Sheriff by virtue of county residency requirements and domain-specific functions. As I have shown, a large portion of county Sheriff elections are uncontested – and that number rises to around half of incumbent races. Anecdotally, party leaders are often unable recruit candidates with law enforcement experience to run for Sheriff (Manning, 2012; Becker, 2018), even in more populous counties like Riverside County, California and Rennselaer County, New York (Metz, 2018; Crowe, 2019). And Sheriffs can and do directly manipulate (that is, depress) their competition; press reports document numerous instances where incumbents have punished, through demotion or firing, deputies who choose to run against them or support their opponents

Table 1: Published Estimated Tenures of Police Chiefs

Tenure	Sample	Source
4 years	554 cities (10,000-500,000 people)	Smith 1940
4.3 years	Iowa Police Chiefs (1950s)	Lunden 1958
5.5 years	493 Chiefs (1983)	Witham 1995
5.68 Years	117 Police Chiefs	Enter 1986
5.5 years	115 Kentucky Chiefs (1989)	Tunnell & Gaines 1992
4.9 years	Jurisdictions >50,000 people	PERF (1997)
5.3 years	Nationwide (1970-1993)	Maguire 2003
2.5-3 Years	Departments >1,000 Officers	Leovy 2002
5.1 Years	10 departments (all sizes)	Rainguet 2001
3 years	Big Cities	PERF (Klayman 2015)
4 years	Small cities	PERF (Klayman 2015)

(DeWitt, 2002; Starnes, 2010; Gervais, 2011; Greene, 2017; Bowen, 2017; Mukomel, 2017; Clay, 2017; Lerten, 2018; Austin, 2015; Andrews, 2018).⁹ Moreover, in many states, employees who work for Sheriff's Offices have to resign in order to run for Sheriff. Foregoing salary like this can be prohibitively expensive and deter potential challengers (Angel, 2002, 173-174). Presumably, the demonstrated threat of employment loss has a chilling effect on deputies or other employees who might seek to replace an incumbent Sheriff – a very concrete form of challenger “scare-off” (Cox and Katz, 1996) – that advantages incumbents.

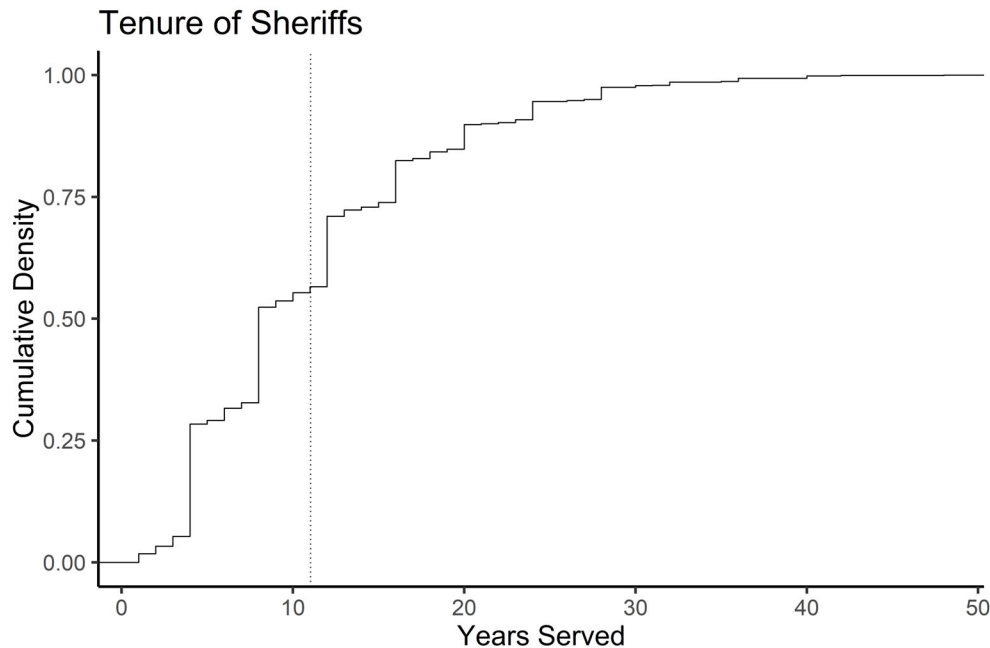
5.2 Comparing Sheriffs and appointed Police Chiefs

While never long or “noted for its serenity” (Williams, 2015), the tenure of police chiefs has become increasingly abrupt and chaotic in recent years. In 2015, nine of the nation’s 30 biggest cities left their jobs. But rapid turnover of police executives is a problem affecting departments of various big cities (Leovy, 2002; Johnson, 2016) and small towns (Levulis, 2013; Barndollar, 2018; Burgess, 2018) and has long concerned policing scholars (Smith, 1940, 232). Police scholars have interrogated a variety of important institutional factors related to law enforcement executive tenure, this research has solely analyzed police chiefs, overlooking the fundamental difference in how policing is administered in the United States between police departments and Sheriff’s Offices (Falcone and Wells, 1995). How does the tenure of Sheriffs compare with their appointed counterparts?

A natural consequence of incumbent Sheriffs continuing to run for re-election and enjoying a large incumbency advantage is that officeholders enjoy long tenures. To provide I combine electoral data from counties with at least 30 years of election data with additional data on Sheriff office holding from a book about the political realignment of the American South (Lublin, 2007) and the Prison Policy Initiative’s report on the 200

⁹Courts have issued differing opinions on whether these retaliatory actions are constitutionally permissible (Wilburv. Mahan, 1993; Greenwell v. Parsley, 2008; Nord v. Walsh County, 2014; McCaffrey v. Chapman, 2017) or unconstitutional suppression of 1st Amendment Rights (Morgan v. Robinson, 2018). Most colorfully, the 7th Circuit concluded in Upton v. Thompson that “the politically active deputy” who “vociferously campaigns” for the losing candidate “encounters Matthew 26:52: ‘All they that take the sword shall perish with the sword.’”

Figure 7: Cumulative density of years served in office for 1243 Sheriff officeholders. The vertical dashed line at 11 years indicates the average.



largest jails (Clark, 2017). In this augmented officeholding panel of 1243 officeholders, average tenure is 11 years and varied considerably between states (15 years in Massachusetts versus 6.6 years in Delaware).¹⁰ Figure 7 illustrates the cumulative density of the tenure of Sheriff officeholders. While 50% serve for 8 years or less, the data have a pronounced right-skew. The longest officeholder in the panel – Sheriff Cullen Talton of Houston County, Georgia – served for 48 years.¹¹

Scholars and police organizations provide various estimates for the tenure of chiefs, but none of them come close the estimated tenure of Sheriffs. Smith (1940, 242) first raised the issue of police executive turnover by noting that El Paso, St. Paul, Detroit, and New York City often averaged more than one chief of police per year in the 1920s and 1930s and published the first tabulation of police chief tenure at just over 4 years. Since then, various estimates have emerged, ranging from about 2.5 to 6 years (Table 1). The Major Cities Chiefs Association reported a tenure of 2.5-3 years (Leovy, 2002) and the Police Executive Research Forum reports that the tenure of police chiefs in big cities is about 3 years, on average, and about 4 years in smaller cities – about a year below what their predecessors served (Klayman and Reid, 2015).

In other contexts, appointed officials have been shown to stay in office for longer than elected ones; among Kansas judges, appointees stayed in office for about 14 years, compared to 11, among elected judges (Lim,

¹⁰This is, to the best of my knowledge, the first systematic estimate of Sheriff tenure in the scholarly literature. While it is quite high – and much higher than police chiefs – it is far less than the 24 year tenure for Sheriffs that has been quoted (without methodological details) in some popular press articles in the *New Yorker* and *Atlantic*.

¹¹A local newspaper recounts a jocular exchange between Sheriff Cullen and a citizen: “Sheriff, you know if you retire, what’s going to happen? ... You’re gonna to die.’ Talton, who’s spent nearly half of his life as sheriff, grinned ear to ear and laughed out loud.”

2013, 1366-1367). Why, then, do Sheriffs stay in Office for so much longer than police chiefs? The overwhelming majority of police chiefs do not have an employment contract, and the mayor or city manager who appoints them can sack them at any time (Rainguet and Dodge, 2001, 269-270). When a Department confronts scandal – such as a brutality incident or employee squabble – or a personal indiscretion of the chief comes to light – the mayor frequently terminates the police chief. In recent years, brutality incidents and consequent scandals have resulted in the firing of police chiefs in Baltimore, Chicago, San Francisco, and other places. “It’s almost analogous to a struggling football team — you can’t fire the whole team, so you fire the coach,” said Chuck Wexler of the Police Executive Research Forum. “Mayors are making a statement” (Williams, 2015). But police chiefs are often sacked even in the absence of major scandal (Mahtesian, 1997), such as for “lack of confidence” (Tomberlin, 2018, 132) or posting divisive content on social media (Klayman and Reid, 2015).

While scandal usually results in the termination of the police chief, “ineffectiveness or corruption” is not the primary reason most police chiefs lose their jobs. (Gaines and Worrall, 2011, 176) Instead, most terminations occur following conflict with one of the many competing audiences to which chiefs must cater. Primary reasons for a change in the chief of police include a change in Mayoral administration, stress/health problems, retirement, and dismissal (Lunden, 1958; Tunnell and Gaines, 1992; Rainguet and Dodge, 2001). About 25% of Kentucky chiefs left their jobs for personal reasons and 50% were demoted, forced to resign or retire, or terminated for political reasons (Tunnell and Gaines, 1992). As “intermediaries” between police organizations and the public (Maguire, 2003, 134), police executives grapple with multiple audiences, demands, and constraints. Within the department, the power of police chiefs is “severely constrained” by the collective bargaining process and informal powers of police unions (William, 1984, 27) and the relationship between chiefs and unions has been deemed a “battle for control of the police agency” (Bouza, 2013, 240). Beyond their department, satisfying the politicians who appoint them (mayors, city managers, and city councils) constrains and drains many police chiefs (Benson, 2004). Case studies abound in which mayors disrupt police agency operations “while the police chief is afraid to intervene for fear of being fired” (Maguire, 2003, 100). Consequently, “Most police chiefs basically are in a no-win situation” faced with the intractable task of satisfying many different constituents placing often conflicting demands on police services (Gaines and Worrall, 2011, 176). Scholars conclude that “the job of the modern police chief is stressful and exhausting” and the high stress levels of the job frequently push them to quit (Rainguet and Dodge, 2001, 269).

Sheriffs tend to be insulated from some of these pressures because they do not have any political boss besides the voter, whose assessment occurs just once every few years. In surveys asking law enforcement executives about the conditions that might jeopardize their ability to do their job, chiefs and elected Sheriffs report they are equally concerned with maintaining community support, equally concerned about levels of crime, and spend about equal amounts of time on community relations activities (International Association

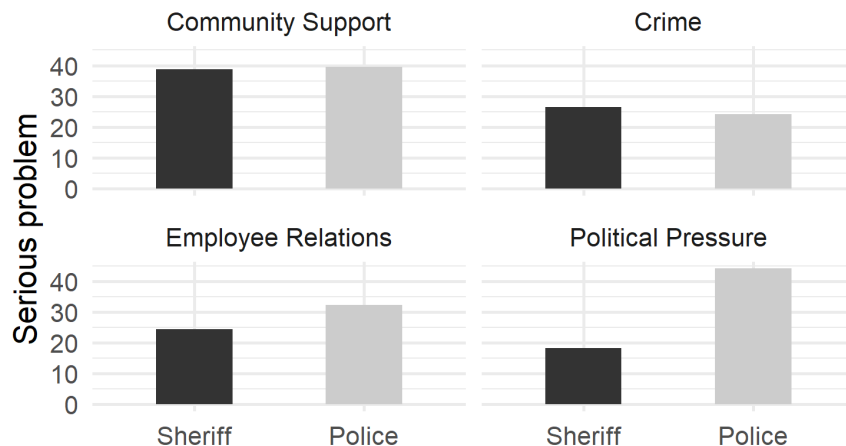


Figure 8: “Considering those conditions which might jeopardize a police chief executive’s position, which do you regard as very serious (mark one or more).” Data Source: [International Association of Chiefs of Police \(1976\)](#)

of Chiefs of Police, 1976, 104).¹² Sheriffs seem to be somewhat less concerned about employee relations than chiefs (with 24% vs 32% calling it a very serious problem), perhaps because they generally have more discretion over hiring and firing ([McCarty and Dewald, 2017](#)) and are less likely to face a unionized workforce. However, the biggest difference in the problems faced by chiefs and Sheriffs is that chiefs are much more concerned with political pressure from other government officials, with about 44% of chiefs calling this a very serious problem compared to 18% of Sheriffs (Figure 8). Jim Bueermann, president of the Police Foundation explains ([Greenblatt, 2018](#)) “Police chiefs run for their office every day, in the sense that they’re at-will employees. You can’t really fire a sheriff.” Barring impeachment or conviction, the only people who *can* fire a Sheriff are the voters on election day ([Tomberlin, 2018, 130-132](#)). And, as discussed, the Sheriff has many advantages at his disposal – including personal discretion over resources and employment – that can help him secure re-election. With elections rarely doing the job, and political supervision off the table, there are few tools left to hold Sheriffs accountable. In coverage of a Sheriff who raided the home of a critical blogger, one reporter concluded that “Because sheriffs have no direct supervision, criminal prosecution or lawsuits may be the only checks against those who abuse their power” ([Bogdanich and Ashford, 2017](#)).

¹²“Although elected police chief executives are assessed periodically through the election process, they do not appear to be much different from nonelected police chief executives in the way they spend their time or in their concern for public support” ([International Association of Chiefs of Police, 1976, 104](#)).

6 Conclusion

Speaking to the National Sheriffs Association, Attorney General Jeff Sessions gushed that “The independently elected sheriff has been the people’s protector, who keeps law enforcement close to and accountable to people through the elective process.” But there is a jarring disconnect between this idyllic vision of the county Sheriff and its reality. Sheriff Harry Lee, a 30-year bulwark of Louisiana politics, proclaimed: “The sheriff of [Jefferson Parish] is the closest thing there is to being a king in the U.S. I have no unions, I don’t have civil service, I hire and fire at will. I don’t have to go to council and propose a budget. I approve the budget. I’m the head of the law-enforcement district, and the law-enforcement district only has one vote, which is me” (Burnett, 2006). After Sheriff Lee’s death, Jefferson Parish built a 14 foot bronze statue of him in 2008 (Faciante, 2008). How did an Office designed to be directly accountable to voters become so imperial?

I have provided some insight into this puzzle through a systematic examination of the electoral environment that selects and sanctions Sheriffs. Armed with expansive original data spanning more than 5,000 races, this paper provides the first estimate of incumbency advantage in Sheriff elections and, in so doing, showed that the average tenure for elected Sheriffs far exceeds that of their appointed police chief counterparts. The Sheriff is not monitored by Mayors like other law enforcement officials, instead being directly accountable to the public through elections. But these elections are usually not competitive, and incumbent Sheriffs appear to be hugely advantaged in them. One consequence of this arrangement is a higher degree of stability in police leadership, which is by no means a bad thing given that turnover is expensive and stable leadership can facilitate professionalization and police reform (Goldstein, 1977). But gains in stability could be paid for in part by less accountability as it is much harder to replace a misbehaving Sheriff than a misbehaving police chief (Tomberlin, 2018) and poorly behaving Sheriffs often continue to be re-elected (Schmidt, 1984; Bogdanich and Ashford, 2017). A common critique of democratic accountability is that it makes elected officials shortsighted by virtue of electoral turnover. But in this case it is the elected politician Sheriffs – rather than the bureaucratic police chiefs – who are more stable in their offices. Future scholarship might explore the generality of this result in other contexts: comparing, for example, appointed and elected superintendents, school boards, and city/county executives to test under what conditions elections lengthen the tenure of public officials.

Politically, these results beckon local governments to experiment with other institutional arrangement that could produce stable but responsive law enforcement leadership, as police chiefs are often punished for things over which they have no control, while Sheriffs survive all sorts of scandals. It is too easy to fire a police chief and too difficult to fire a Sheriff.

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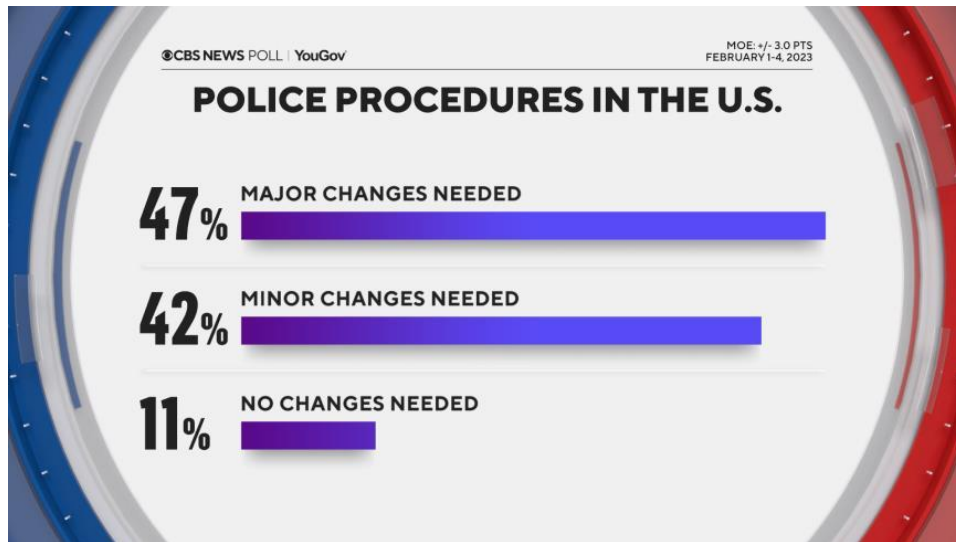
Table A1: Sheriff Election Database

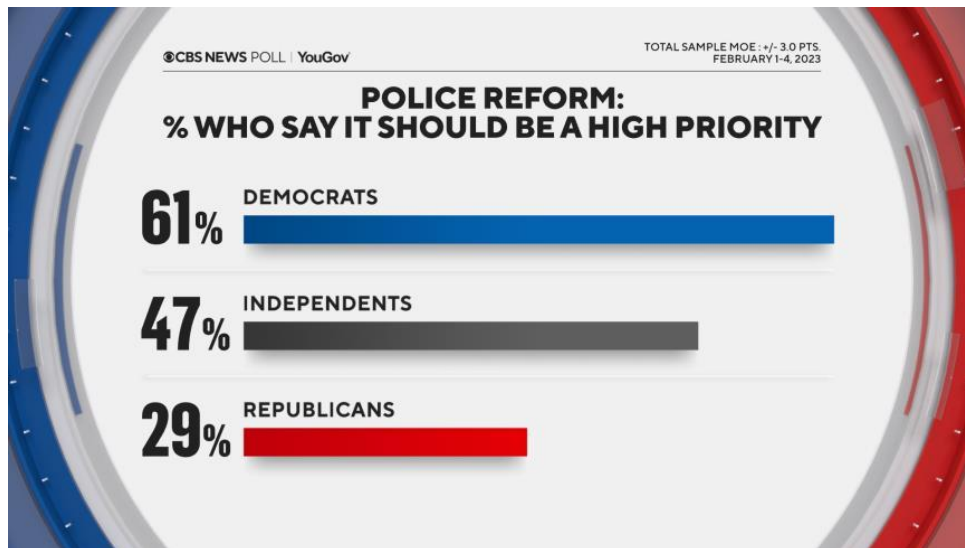
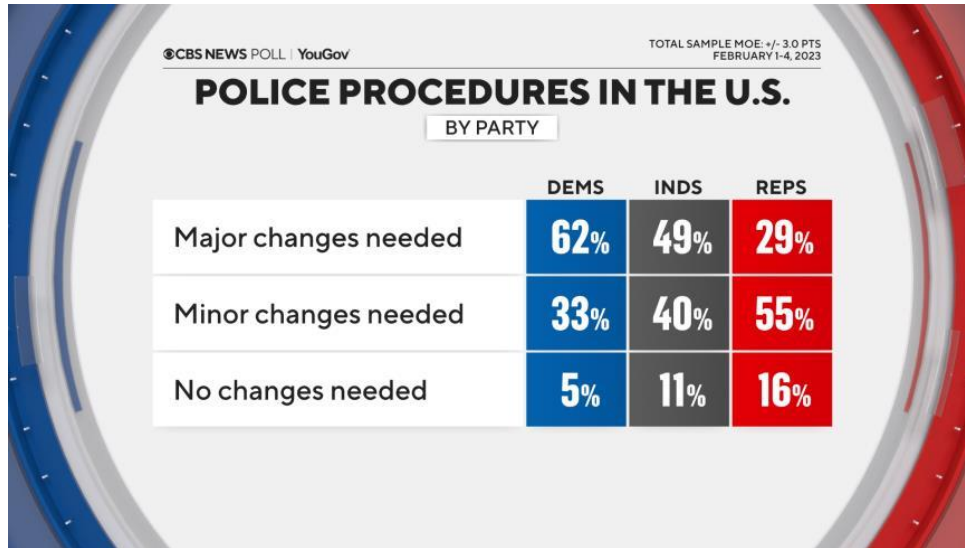
State	Counties	Candidates	Elections	First Year	Last Year
Alabama	1	7	3	2010	2018
Arizona	15	128	72	1964	2016
California	58	579	354	1962	2018
Colorado	1	5	3	2010	2018
Delaware	3	71	39	1970	2018
Florida	5	48	23	1996	2016
Georgia	159	1092	793	2000	2016
Illinois	2	32	16	1958	2018
Iowa	1	9	4	2004	2016
Kansas	6	21	16	2004	2016
Kentucky	108	292	185	2010	2014
Louisiana	64	1370	586	1982	2015
Maine	16	96	64	2004	2018
Maryland	24	159	96	2006	2018
Massachusetts	14	250	154	1962	2016
Michigan	3	24	14	2000	2016
Minnesota	87	648	435	2002	2018
Mississippi	82	600	326	2003	2015
Nebraska	6	27	27	1990	2018
Nevada	17	147	83	2002	2018
New Hampshire	10	140	100	2000	2018
New Jersey	21	194	97	2003	2017
New Mexico	33	331	196	1998	2018
North Carolina	100	504	300	2010	2018
North Dakota	53	235	159	2010	2018
Ohio	88	340	262	2008	2016
Oklahoma	77	231	155	2008	2016
Oregon	4	31	24	1990	2018
Pennsylvania	1	4	2	2011	2015
South Carolina	46	264	185	2002	2018
Tennessee	4	48	24	1990	2018
Texas	9	106	48	1992	2018
Utah	1	7	6	1998	2018
Vermont	14	97	70	2002	2018
Virginia	123	1058	532	2000	2017
Washington	38	190	123	1974	2018
West Virginia	1	4	2	2012	2016
Wisconsin	5	25	18	2002	2018
Wyoming	3	12	8	2010	2018
Total	1303	9426	5604	1958	2018



Amid renewed discussion of police procedures, large bipartisan majorities believe at least some changes are necessary. Partisans do differ on the extent of change needed and the urgency of police reform generally: Democrats say major changes are needed; Republicans say minor ones would suffice. Democrats consider police reform a high priority; Republicans, less so.

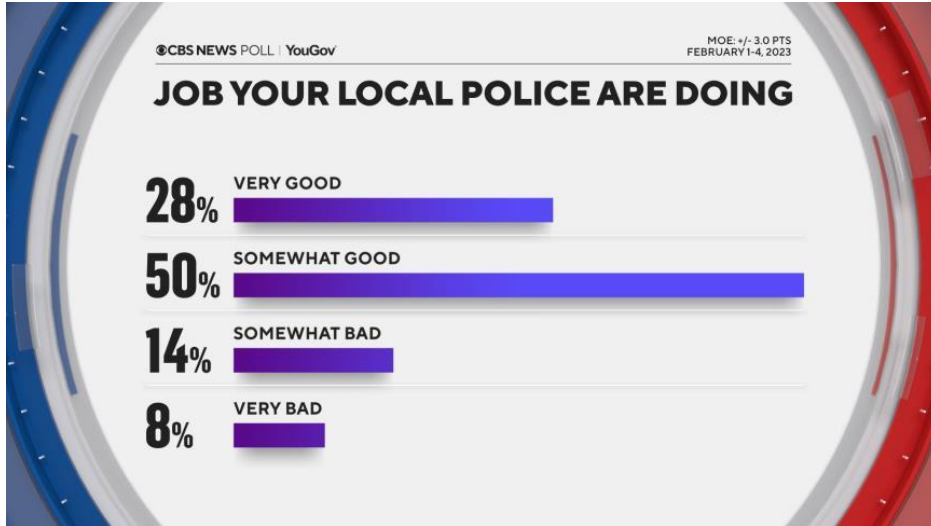
As has long been the case, race shapes people's views of both how their local police make them personally feel and how they perceive the way police treat White people and Black people.





People's feelings about police in their own community are related to their views on the need for police reform more broadly.

Large majorities of Americans say their local police do a good job. Those who rate the police in their own area positively tend to call for minor reforms overall. The fewer Americans who rate their own police more negatively see a need for major reforms more generally.

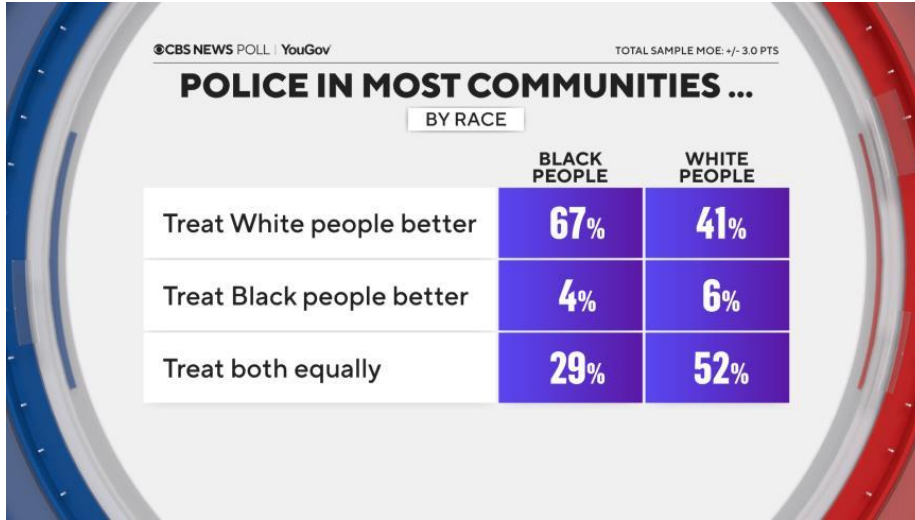


Race has long played a role in views of police. Black Americans are more apt to report feeling a mix of both protected and threatened by police in their area, whereas most White Americans feel just protected.

Age matters a lot too, as older people report feeling just protected, and younger people, more of a mix.



When they judge police treatment generally, Black Americans are especially likely to say police in most communities treat White people better than Black people. In turn, about two-thirds of Black Americans want major changes to the way police departments operate in the U.S.



This CBS News/YouGov survey was conducted with a nationally representative sample of 2,030 U.S. adult residents interviewed between February 1-4, 2023. The sample was weighted according to gender, age, race, and education based on the U.S. Census American Community Survey and Current Population Survey, as well as the 2020 presidential vote. The margin of error is ±3.0 points.



Garrett Bondaug <g*****g@gmail.com>

Commissions & Studies Reference

Garrett Bondaug <g*****g@gmail.com>

Fri, Aug 11, 2023 at 4:46 PM

To: NBiagini@santaclaraca.gov, na.....i@gmail.com, n.....i@aol.com

Cc: Carolyn Schuk <c*****@santaclaraweekly.com>, r*****@sanjosespotlight.com, j*****@bayareanewsgroup.com

Good afternoon, Nancy. I watched and listened to [your call-in comment](#) during last night's City of Santa Clara Charter Review Committee meeting and noted your statement "I can tell you that **more than one national study** that I've looked at, considering the fact that there is a lot of question about police behavior now, **all the human rights commissions that I've ever worked with, heard from, or was involved with, unanimously say the best way to reform a police or law enforcement movement is to elect your police chief.** It's that simple."

Can you provide reference of the following:

- a) Which national studies are you referring to?
- b) Which Human Rights Commissions specifically recommends the election of a police chief or sheriff?

Regards,

Garrett Bondaug



Garrett Bondaug <g*****g@gmail.com>

Commissions & Studies Reference

Garrett Bondaug <g*****g@gmail.com>

Tue, Aug 22, 2023 at 12:41 PM

To: NBiagini@santaclaraca.gov, n*****i@gmail.com, n*****i@aol.com, PlanningCommission@santaclaraca.gov, c*****z@santaclaraca.gov, mayorandcouncil@santaclaraca.gov

Cc: Carolyn Schuk <c*****@santaclaraweekly.com>, r*****@sanjosespotlight.com, j*****@bayareanewsgroup.com

Hello Planning Commission Member Nancy Biagini, I did not receive a bounce-back from the previous email I sent to your @SantaClaraCA.gov, Gmail, or AOL email address but in case you somehow didn't receive it I've included Asst. City Manager Cynthia Bojorquez, the Santa Clara Planning Commission group email address and Santa Clara City Council in hopes of this follow-on and the original inquiry reaching you.

I reviewed your alma-mater, George Mason University's College of Humanities and Social Sciences, and reviewed all [Selected Faculty Publications from 46 faculty members](#) at their Criminology, Law, and Society Department, and **couldn't locate one opinion that police chiefs should be elected**. [Evidence Based Policing](#) ; [Criminology, Law, and Society](#) ; [Police Forces Groundbreaking Study, Career Trajectories](#)

I've also spent a good amount of time looking at various Human Rights Commissions that might have taken up the topic of an Elected vs. Appointed Police Chief and couldn't identify any that support an Office of Police Chief or Sheriff being elected. If I've completely missed any of the Commissions or National Studies [you publicly offered](#) during the August 10th CRC meeting I apologize for that oversight. Can you please reference them for me?

If you can't substantiate those claims, would you mind emailing Clerk@SantaClaraCA.gov before 12:00pm PST this Thursday to amend or retract your public statements? While it is within everyone's First Amendment right to speak freely, regardless of one's ability or willingness to substantiate claims, I believe this topic is too important for someone currently on the City of Santa Clara Planning Commission to not be able to substantiate.

Respectfully,

Garrett Bondaug

[Quoted text hidden]