

September 2021

Sheriff Wagner opines on Constitutional Sheriffs

A number of people have called and emailed me with the question of ‘am I a Constitutional Sheriff’? When I was first asked that question I thought it meant, ‘is the Office of the Sheriff in Nebraska established in our constitution’? I can tell you it is not. Nor, is the Office of Sheriff mentioned in the U.S. Constitution. The excerpts below show the Nebraska Constitution gives the authority to establish sheriff’s offices to the Legislature. As a matter of fact, different bills have been introduced over the years to eliminate elected county officers, but have failed.

Nebraska State Constitution Article IX-4 *The Legislature shall provide by law for the election of such county and township officers as may be necessary and for the consolidation of county offices for two or more counties; Provided, that each of the counties affected may disapprove such consolidation by a majority vote in each of such counties.*

To accomplish the requirements in the Constitution, the Legislature enacted Nebraska Revised Statute 32-520; *A county sheriff shall be elected in each county at the statewide general election in 1990 and each four years thereafter. The term of the county sheriff shall be four years or until his or her successor is elected and qualified. The county sheriff shall meet the qualifications found in sections 23-1701 and 23-1701.01. The county sheriff shall be elected on the partisan ballot.*

All elected officials at the county level take the oath of office codified in N.R.S. 11-101.01; *I,, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of Nebraska, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or for purpose of evasion; and that I will faithfully and impartially perform the duties of the office of according to law, and to the best of my ability. And I do further swear that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am in this position I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence. So help me God.*

I am sworn to support and defend the Constitution of the United States, and the laws and constitution of the state of Nebraska, not to interpret it. I take that oath of Office very seriously.

When I googled “constitutional sheriffs” the definition given means they enforce constitutional law over all else –it has nothing to do with the establishment of the Office of Sheriff in the Constitution or Statute. "constitutional sheriffs" believe that sheriffs are the highest governmental authority and that they have the power and duty to defy or disregard laws they deem unconstitutional. Those last three words should concern all of us. **“they deem**

unconstitutional". Nowhere are Sheriffs given the legal authority to interpret the Constitution. I also find it interesting the Constitutional Sheriffs and Police Officers Association (CSPOA) pick and choose which issues they feel are unconstitutional. Immigration, Gun Control and federally controlled land within a state have been the CSPOA targeted areas in the past. Now, Directed Health Measures; mask mandates and vaccine mandates are the latest issues deemed unconstitutional by the group. The fact is, in Nebraska, Health Departments are codified in Statute. Directed Health Measures and the penalties for violating them are also in Statute. If you don't like how the COVID-19 pandemic is being handled, there are a number of ways to make your displeasure known. Not the least of which is asking your State Senator to introduce a bill to change the Statutes governing Health Departments.

It would appear the patriot and the sovereign citizen movements have ideological similarities with the CSPOA and are prompting citizens to 'vet their Sheriff' to determine if they are a Constitutional Sheriff according to the guidelines of the CSPOA? So the bottom line is, since Sheriffs don't have the legal authority to judge a law as unconstitutional, that must mean I am not a Constitutional Sheriff, nor are there any Constitutional Sheriffs in Nebraska.

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