



Written by [Joe Wolverton, II, J.D.](#) on April 22, 2023

## Michigan Sheriff Won't Enforce Unconstitutional Gun Laws

“Whenever the right of the people to keep and bear arms is, under any color or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.” — St. George Tucker

A subcommittee of the Livingston (Michigan) County Board of Commissioners has forwarded a resolution reaffirming their support of the Second Amendment, and they have instructed the county sheriff and the county prosecutor to refuse to enforce any federal gun regulation that they deem unconstitutional.



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Livingston County is not new to the struggle to save the right of the people to keep and bear arms from attacks out of Washington, D.C., and Lansing. In 2020 the county passed a resolution designating the county to be a “Second Amendment Sanctuary.”

This latest resolution adopts a stauncher position, declaring Livingston County to be a “constitutional county” that will not “fund any new program that infringes on the right to keep and bear arms, a right protected by the U.S. Constitution and Michigan State Constitution.

The text of the resolution reads in part:

It is the desire of this board to reaffirm its commitment and support of the Constitution of the United States of America as well as the Constitution of the State of Michigan including all amendments which protect Livingston County citizens’ individual rights.

This board will not authorize or appropriate new funds, resources, employees, agencies, contractors, buildings, detention centers or offices for the sole purposes of enforcing any statute, law, rule, order, or regulation that restricts the rights of any law-abiding citizen affirmed by the Second Amendment or Article 1, Section 6, of the Michigan Constitution, nor be used to aid any state or federal agency in infringing or restricting such rights.

Livingston County Sheriff Mike Murphy disagrees with some of the language in the resolution, but opposes any attempt to enforce the so-called “red flag” laws in his county.

“I’m not going to enforce something that is not constitutional,” Murphy told [the Livingston Daily](#).

Murphy put a finer point on his department’s position during a meeting of the County Board of Commissioners:

I’m not going to support, enforce, investigate anything that is unconstitutional when it comes to 2A or any other constitutional matter. I’m a constitutional sheriff and I’m not going to do anything that is going to jeopardize that, and if, God forbid, the red flag laws do pass,



we won't be enforcing those or investigating those either.

Red flag laws, also known as extreme risk protection orders (ERPOs), are state-level laws that allow law-enforcement officials, family members, or other concerned parties to petition a court to temporarily remove firearms from individuals who are deemed to be a danger to themselves or others.

The Michigan State Attorney General's Office issued the following statement to the *Livingston Daily*:

Every sheriff throughout our state is a duly elected law enforcement authority within their community, chosen by the voters of their county. As such, they have the right to discretion in that role as to what laws they will enforce, and which they choose not to, with the resources available to their department. If they choose not to enforce laws to prevent gun violence, avoidable injury, and death, that is a decision for their constituency to evaluate. These decisions will ultimately be judged by the voters in their county.

In the meantime, at the state level, we will continue to utilize every tool available to us to prevent gun deaths in Michigan. Sheriffs may choose not to enforce these laws, but the very real consequence of that is people may die unnecessarily from preventable gun deaths.

Regardless of the AG's rhetoric, there is no evidence that armed cities are more violent than those with stricter gun restrictions. In fact, it is in those cities where the right to keep and bear arms has been most aggressively denied to the people where armed violence is most prevalent.

Besides, as a state officer, the Michigan Attorney General took upon herself an oath to "support the Constitution," as mandated by Article VI of the U.S. Constitution.

Should the attorney general decide to enforce unconstitutional acts of the federal government, then she is not supporting the Constitution, but is subverting it and therefore should be held accountable for violating her oath.

Perhaps a greater number of these state legislators, attorneys general, and judges would be more inclined to perform their Article VI duty if the people who elected them would sue them and hold them legally accountable for any failures to carry this burden.

Imagine, furthermore, the uproar in state assemblies across the country if, every day the legislators were in session, process servers showed up at their offices armed with lawsuits charging them with dereliction of their constitutional duty!

Finally, the Livingston County Board of Commissioners and Sheriff Murphy are to be congratulated for their resistance to federal overreach. Their rock-ribbed defense of the right of the people to arm themselves is an example for their colleagues in the other 49 states to follow.

When it comes to forcing the federal beast back inside its constitutional cage, there is no more effective tool than nullification.

Nullification occurs when a state, county, city, or other local entity holds as null, void, and of no legal effect any act of any government body that exceeds the boundaries of its constitutional powers.

As Alexander Hamilton explained in *The Federalist*, No. 78:

There is no position which depends on clearer principles, than that every act of a delegated



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authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid.

To break state and federal lawmakers of their tyrannical habits, more men need to perform practically what Madison and Jefferson described on paper. They must unashamedly disregard any act of any branch of the federal government that goes beyond the boundaries of its constitutional authority. Any such act purporting to have the force and function of law must be considered and treated as Thomas Jefferson recommended: “*ab initio*, null, void, and of no force or effect.”

The resolution will now be forwarded to the full County Board of Commissioners for debate and vote.





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