



Written by [Kelly Holt](#) on April 16, 2012

## **Bills Proposed in Ariz., Del. Concern Sheriffs' Constitutional Authority**

A. Before taking any official law enforcement action in a county in this state, a federal law enforcement officer shall notify the sheriff of the county, unless the notification would impede the federal officer's duties.

B. If a federal law enforcement officer does not notify the sheriff pursuant to subsection A. of this section, the federal law enforcement officer shall notify the sheriff of the county as soon as practicable after taking the action.



The popular bill would have affirmed Arizona county sheriffs' authority to protect the rights and liberties of the citizens of their counties from federal overreach, and simultaneously put the federal government in its constitutional place of subordination to the rights of the state. Proponents of HB 2434 noted that because it was the states which originally formed the federal government, the U.S. Constitution limits federal authority to specific enumerated powers, with the 10th Amendment clearly leaving all other powers to the states and the people.

However, according to the [Northern Arizona Gazette](#), Arizona Governor Jan Brewer vetoed the measure last week, stating:

This legislation has the potential to interfere with law enforcement investigations and adds unneeded reporting requirements for law enforcement. Rather than hinder the efforts of our federal law enforcement colleagues, we need to focus on collaboration.

She added, "Establishing arbitrary reporting requirements for our federal partners takes us in the wrong direction."

The *Gazette* continued,

[Gov. Brewer] noted that the Arizona Counter-Terrorism Intelligence Center gathers local, state and federal law enforcement to jointly fight against terrorism and other serious crimes. Apparently that does not include securing the southern border.

According to the [Arizona state constitution](#): "If, after reconsideration [the legislation] again passes both



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houses by an aye and nay vote on roll call of two-thirds of the members elected to each house, it shall become a law as provided in this constitution, notwithstanding the governor's objections."

Meanwhile, on the East Coast, Delaware lawmakers are considering a very different type of bill, one which would in fact modify state law to *limit* the authority of sheriffs and deputies. State Rep. Danny Short (Seaford), co-sponsor of HB 290, said, "It tells the sheriffs of the state of Delaware what they can and cannot do. Specifically, it says they cannot arrest people."

According to [wboc.com](#), "The bill is partially intended to resolve an ongoing dispute between Sussex County Sheriff Jeff Christopher and the county administration."

The website explained:

Delaware sheriffs traditionally conduct foreclosure sales and deliver court papers. Christopher believes the state constitution makes him a law enforcement officer. The county council and county administration disagree. Last fall, then-County Administrator David Baker ordered deputies to stop performing police work and remove lights from sheriff's vehicles. Baker said the sheriff was putting the county at risk of lawsuits.

"This is an issue that needs to be resolved," Short said. "Take it to where the attorney general said we need to take it which is the floor of the Delaware General Assembly."

Last week, the Sussex County Council voted unanimously to support the bill. Rep. Short said the proposal has bipartisan support from all three Delaware counties.

Sheriff Christopher stated that he was not surprised by the measure, declaring that it is part of an ongoing "power struggle": "As far as I'm concerned, it's another step to erasing the office of sheriff from the state of Delaware. That's a danger to the people." He added, "If the people out here in Sussex County, and Delaware for that matter, feel that the office of the sheriff is important to them, then they need to speak up now."

Many Sussex County [residents have indeed voiced their displeasure](#) over the measure to their county council, pointing out that because a sheriff is elected by the people, he is not accountable to any committee or council, but only to the people who elected him. Sussex County resident Sandy Menard told council members:

This isn't about Jeff Christopher. This is about an office that is accountable to the people. Everyone I talked to says this is about punishing a sheriff. This takes away the accountability of the people. We would like to you to rescind your support and, if you can't, to please explain why.

Sheriff Christopher said his deputies have not performed police work since receiving Baker's orders last fall. He noted that a constitutional amendment may be necessary if lawmakers want to clarify his authority, which he believes comes from Delaware's constitution. Christopher plans to further discuss the bill with his supporters.

Critics of such moves to limit the authority of sheriffs have noted that the office of sheriff is in jeopardy in other states as well. In fact, the state of Connecticut has eliminated the office altogether. (According to [Wikipedia](#): "Connecticut county governments were mostly eliminated in 1960, with the exception of sheriffs elected in each county. In 2000, the county sheriff was abolished and replaced with the state marshal system, which has districts that follow the old county territories.")

It is precisely because the nation's sheriffs, who have been called "the last line of defense" in protecting Americans from overreach by the federal government, are increasingly finding their authority under fire



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that widely known former Graham County, Arizona Sheriff Richard Mack recently founded the Constitutional Sheriffs and Peace Officers Association (CSPOA). Mack explained that the group was established for the purpose of educating the nation's sheriffs about their constitutional right to protect the residents of their counties from the overreach of federal law enforcement officials.

The founding meeting, held three months ago in Las Vegas, was attended by 90 sheriffs, as well as 25 other county officials. The convention featured constitutionally educated speakers such as Thomas Woods, author of [Nullification: How to Resist Federal Tyranny in the 21st Century](#); Jim Fitzgerald, a former police officer and present National Director of Field Activities for The John Birch Society; President of the American Policy Center Tom DeWeese; and Oath Keepers founder Stewart Rhodes.



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