

The Washington Post

Boosted by the pandemic, ‘constitutional sheriffs’ are a political force

Kimberly Kindy

November 2nd, 2021

As Mark Lomax campaigns for the top law enforcement position in Bucks County, Pa., there’s one question some voters keep asking: Will he be a “constitutional sheriff”?

The 62-year-old former state trooper has largely avoided the polarizing label, which refers to a movement of sheriffs who argue that their power to interpret the law is above any state or federal authority — even the president.

Lomax embraces the unique powers of elected sheriffs, who report directly to voters, unlike police chiefs who are generally hired and fired at will by city councils. “You pretty much have no authority above you government-wise; you answer to the voters,” Lomax said, adding that despite this freedom he plans to be “a sheriff who enforces the laws.”

In dozens of races around the nation, answering that question has become a key campaign topic, as the constitutional sheriffs movement has capitalized on anger at pandemic restrictions. While it’s unclear exactly how many law enforcement officials embrace the ideology, one group that promotes it claims up to a 10th of the nation’s sheriffs as dues-paying members, and numerous candidates for sheriff now on the ballot echo its rhetoric.

The stakes go beyond local policing issues, as sheriffs who embrace the ideology have refused to enforce mask mandates and several have announced plans to resist President Biden’s impending rule that all businesses with 100 or more workers must be fully vaccinated against the coronavirus or face weekly testing.

“We will not become the mandate police,” Knox County Sheriff Tom Spangler said at a news conference in Tennessee as he discussed his [Oct. 25 letter](#) to Biden calling the vaccine mandate “unconstitutional” and “government overreach.”

Supporters of the movement see their elected sheriffs as the last line of defense against unwanted local, state and federal mandates.

“They are very much in this ‘don’t tread on me’ world that sees the federal government as a very threatening force,” said Michael Zoorob, a fellow at Northeastern University’s Boston Area Research Initiative who researches sheriffs. “They see themselves as an institution that can stand in the way of encroachment of the federal government against communities.”

The constitutional sheriffs movement has gained momentum at a time when sheriffs are playing an outside political role as lawmakers debate bills to overhaul policing in the wake of George Floyd’s murder.

In several states, local and state sheriffs’ associations threatened to pull their support for policing bills if lawmakers didn’t remove provisions that called for banning qualified immunity, a legal defense that provides broad protections for officers in civil lawsuits. And in Congress, sheriffs — who number about 3,000, compared with 13,000 appointed police chiefs — were given significant negotiating power on the George Floyd Justice in Policing Act when Sen. Tim Scott (R-S.C.) said he would not sign off on legislation that was opposed by the National Sheriffs’ Association.

Ultimately, negotiations over the bill ended as the association demanded, among other things, that a federal fund be established — and financed by taxpayers — to pay any legal fees associated with civil judgments against officers and deputies, according to several groups involved in the negotiations.

“They effectively stopped the legislation,” said Jay Schweikert of the Cato Institute, a libertarian group that was a lead proponent of the policing changes. “They were essentially given veto power.”

Greg Champagne, who is sheriff in St. Charles Parish, La., said the organization’s main concerns were over provisions that might have blocked local law enforcement from qualifying for federal grants — something he said was akin to the defunding police. In a joint statement, the Fraternal Order of Police and the International Association of Chiefs of Police disputed that law enforcement would have suffered any financial hit from the bill, saying, “At no point did any legislative draft propose ‘defunding the police.’ ”

Champagne also rejected the narrative around the bill’s defeat. “Statements were made that the sheriffs single-handedly stopped police reform,” he said. “That’s absurd.”

Champagne, the association’s chairman of legal affairs, said that his organization and sheriffs in general have become more politically active, especially on Capitol Hill, because he believes the efforts to change policing were misguided and an attack on the profession.

“We have gotten more engaged in the national debate on issues involving police,” he said. “We also get requests from senators, you know, congressmen saying: ‘Please critique proposals. Tell us what is good about it. Tell us what’s bad about it.’ . . . There’s nothing sinister in it.”

Like 'being a king'

The power that sheriffs have been able to amass comes in part from their ability to hold onto their jobs.

Police chiefs' average tenures are just three years. For sheriffs, the average tenure is 11 years, according to an analysis by Zoorob of sheriffs elections from 1958 to 2018.

Some sheriffs' long reigns are legendary. Former Louisiana sheriff Harry Lee held the office for nearly 30 years in Jefferson Parish and was famous for saying he was "the closest thing there is to being a king in the U.S."

In many states, sheriffs have the ability to raise unlimited campaign funds that can be transferred to other political candidates in the state, which extends their influence beyond their county borders. Unlike many police chiefs, sheriffs are often local celebrities who seek the limelight, routinely holding news conferences to announce, for instance, their decisions to defy government orders.

Although elected sheriffs have long celebrated their power and influence, the modern-day constitutional sheriffs movement wasn't formalized until 2011, when former Arizona sheriff Richard Mack founded the Constitutional Sheriffs and Peace Officers Association.

Its growing influence is evident in recent sheriffs campaigns.

In an Oct. 28 post on Twitter, Virginia Beach Sheriff Ken Stolle, who is up for reelection, posted a picture of himself with his eye to the scope of an assault-style rifle and the message, "As a constitutional officer, I have always defended & upheld the #Constitution & will continue to do so in my next term."

And voters have started asking candidates to take a public position on the ideology on the campaign trail and on social media. "Will you be a Constitutional Sheriff?" one Bucks County voter recently asked Lomax in a Facebook post.

At the time Mack's association was founded, he was a board member of Oath Keepers, a far-right anti-government group that was established in 2009 on the heels of President Barack Obama's election. The Anti-Defamation League today calls both Mack's group and the Oath Keepers right-wing anti-government extremists — a description that Mack alternatively disputed and embraced in an interview.

"Extremism in defense of liberty is no vice. Rosa Parks was considered an extremist," said Mack, who noted that he resigned from the Oath Keepers board in 2015 when the group started positioning itself as a peacekeeping force against Black Lives Matters protesters.

Mack, 69, became a cult hero in far-right and gun rights circles when he was sheriff of Graham County, Ariz., and signed on as a plaintiff in a 1994 lawsuit against the Clinton administration

over the Brady Handgun Violence Prevention Act, which required federal background checks and a five-day waiting period for firearm purchases.

The lawsuit went to the Supreme Court, resulting in a 5-to-4 ruling in 1997 in Mack's favor on some provisions of the law. Mack said his role in the lawsuit created a following and gave him a national platform. "It's my calling card," he said.

Fighting gun laws has always been at the heart of the group's mission, and in recent years immigration and government-sponsored universal health care have also become hot topics. However, lately nothing has fueled the movement more than the coronavirus pandemic.

"We are defying tyrants," Mack said. "People appreciate and sympathize with the mission. They don't want to be told they have to wear a diaper on their face."

For years, Mack maintained that he did not track the size of the association's membership. He now says that about 300 of the nation's 3,000 sheriffs belong to his organization and that an additional 10,000 citizens have joined in recent years.

"The pandemic was a boon to right-wing extremists," said Mark Pitcavage, a senior research fellow at the Anti-Defamation League's Center on Extremism who last month completed a [20-page report](#) on Mack and his group. "Many sheriffs got on that bandwagon as well. In 2020, that was a very successful year for Richard Mack."

Pitcavage noted that the former sheriff is now providing training courses on his ideology to sheriffs and deputies across the country. Local governments are also signing up as members. In June, two rural Nevada counties — Elko and Lander — celebrated their decision to join at a ceremony where Mack spoke and lauded their leaders for becoming "constitutional counties."

A younger generation of sheriffs has started its own organizations that are further fueling the constitutional sheriffs movement.

Mark Lamb, the 49-year-old sheriff of Pinal County, Ariz. — who years ago signed Mack's association's pledge to be a constitutional sheriff — created a nonprofit coalition of sheriffs this year called Protect America Now, which promises to fight "those who want to trample on our Constitution."

Lamb, a frequent contributor on Newsmax and Fox News, says he is working to "build a coalition of patriots." He is also a frequent star on a streaming service he created called American Sheriff Network — started after the television show "Cops" [was canceled](#) after the death of George Floyd — which showcases deputies chasing suspects and making arrests. (Lamb did not respond to requests for comment.)

President Trump also played a key role in growing the power and influence of the nation's sheriffs. After his inauguration, dozens of sheriffs came to the White House to praise Trump as "the new sheriff in town."

It was one of dozens of televised ceremonies, meetings and roundtables that Trump held during his presidency where he was surrounded by sheriffs — but rarely police chiefs.

“They elevated one another,” said Zoorob, the researcher at Northwestern University. “There was a masculine bravado that they shared, too. Trump was bombastic, and sheriffs can be bombastic, too.”

Many sheriffs promoted Trump’s false claims that the election was stolen, and several have been caught in the fallout from the Jan. 6 insurrection.

In California, Riverside Sheriff Chad Bianco has faced calls from local leaders to resign after admitting that he was once a member of the Oath Keepers, a group that includes numerous members who participated in the insurrection.

Canadian County Sheriff Chris West in Oklahoma, meanwhile, attended the Trump rally and marched to the Capitol on Jan. 6. West, who said he did not enter the Capitol during the riots, is secretary of the executive committee for the National Sheriffs’ Association.

Champagne said the attendance of sheriffs at the Jan. 6 events has never been formally discussed by the group. West did not return calls seeking comment.

In Bucks County, Mark Lomax is running for office with a pledge to take on another key challenge: a lack of racial diversity among the deputies in the department. About 98 percent of the Bucks County force is White.

A lack of diversity is emblematic of law enforcement leadership across the nation.

The Reflective Democracy Campaign, a nonprofit research group, issued a [report](#) last year showing that 92 percent of sheriffs are White. However, this largely mirrors the racial makeup of the nation’s police chiefs, who are nearly 90 percent White, according to the [Bureau of Justice Statistics](#).

Lomax, a Black Democrat, is running against Fred Harran, a White Republican, who has also committed publicly to having a goal of increasing racial diversity in the department.

Harran, who did not respond to requests for comment for this article, has also declined to take a public position on whether he embraces the “constitutional sheriff” label.

Instead, like Lomax, he has tried to thread the needle by saying he honors the power of sheriffs who report directly to voters. And, like Lomax, he plans to focus on improving the department’s relationship with the county’s minorities, who represent 12 percent of the population.

And like so many sheriffs’ candidates in recent election cycles, Lomax is emphasizing his desire to use his unique ability to set his own agenda, absent the overriding power of a city council or city manager.

“In our country, this is a very divisive time between law enforcement and communities of color. I wanted to be part of the solution,” he said. “I want to get down in the weeds and talk to schoolteachers, students and communities of color to formulate new policies based on what they tell me, as opposed to having it filtered and decided by another entity.”