

SHERIFF

INTRODUCTION

Milwaukee County's Office of the Sheriff is responsible for a wide range of law enforcement activities, many of which are mandated by state statute, and others of which are not mandated but are authorized under state law. The basis for the position itself is Article IV, section four of the Wisconsin Constitution, which establishes the sheriff as an elected county official and specifies that the sheriff's term of office is four years. Along with most other elected offices, the governor has the power to remove the sheriff (for cause), and the power to appoint a successor in case the office is vacated prior to an election. Otherwise, the state statutes, and not the constitution, establish a county sheriff's duties and obligations.

Chapter 59 of the Wisconsin statutes directs the sheriff to "keep and preserve the peace." The sheriff's principal duties are to operate the county jail, "attend upon the circuit court," and serve and execute processes, writs, warrants and other judicial orders.

As a constitutional officer of the state but an elected official of the county, case law has established the nature and limits of the sheriff's roles and responsibilities. Generally speaking, the sheriff has a degree of autonomy not granted county department heads. The county board has budget authority over the sheriff's office but must fund the office sufficiently to meet state mandates and provide law enforcement. The sheriff also has certain autonomy vis-à-vis state government regulation.

The Office of the Sheriff is divided into four distinct budgetary programs:

- Administration—provides management and operational support such as budget, accounting, personnel, public information, communications and internal audit services. Also provides bailiff services to the county criminal and family courts and provides training of recruits and in-service programs.
- Emergency Management—administers a county-wide emergency plan and conducts related public information activities.
- Police Services—patrols the county grounds, parks, airport, zoo and expressway, and operates drug enforcement units, conducts criminal investigations, and serves civil writs. The unit also operates a SWAT team, dive team and bomb disposal unit.
- Detention Services—includes the county jail, House of Correction (HOC), inmate transportation services and medical and psychiatric services for inmates. Until 2009, the HOC was a separate organizational unit headed by a superintendent who reported directly to the county executive. In 2009, the HOC was renamed the County Correctional Facility-South and placed under the direction of the sheriff. The facility has a design capacity for 1,658 inmates but typically houses approximately 1,900.

While control of the HOC was shifted to the sheriff in 2009, the county's 2009 budget continued to present the two entities as separate budgets. Total budgeted expenditures for the sheriff's office in 2009 were \$93.2 million, including \$77.5 million in property tax levy and \$15.6 million from non-levy revenues. Total budgeted expenditures for the HOC were \$50.4 million, including \$45.6 million in property tax levy and \$4.8 million from non-levy revenues.

The \$123.1 million in property tax levy for the combined sheriff/HOC function makes it by far the largest departmental recipient of property tax levy in the county budget. The Behavioral Health Division is second with \$57 million of property tax levy. The sheriff/corrections function also is largest in terms of number of employees, with 1,439 FTE's budgeted in 2009.

The following table shows how expenditures and tax levy were distributed across the major programs of the sheriff's office and HOC in the 2009 budget. The totals of the individual programs do not tie to the overall sheriff and corrections budget totals because program expenditures include indirect costs that are budgeted elsewhere in the county budget.

Table 24: 2009 Budgeted Program Expenditures for Sheriff and HOC

Program	Expenditure	Tax levy
<i>Sheriff</i>		
Administration	\$7,268,451	\$5,840,701
Emergency Management	\$1,058,301	\$545,762
Police Services	\$25,631,698	\$11,015,181
Detention	\$62,138,183	\$55,092,059
Special Operations	\$16,380,038	\$5,024,029
<i>House of Correction</i>		
Administration	\$8,013,098	\$7,445,906
Food Service	\$3,642,050	\$3,642,050
Inmate Industries	\$2,430,001	\$1,440,222
Adult Correctional Center	\$35,903,984	\$32,064,800

In recent years, a greater share of Milwaukee County's property tax levy has gone to support the sheriff and corrections. The Public Policy Forum's March 2009 report on the county's fiscal condition found that from 2003 to 2007, corrections received an additional \$9.2 million from the tax levy and the sheriff's office received an additional \$6.1 million. Only the Behavioral Health Division received a greater increase in levy funding during this time.

It is important to note, however, that the sheriff's office and corrections had substantial increases in health care and pension benefit costs because of the large number of workers they employ. From 2003 to 2007, the sheriff's budget grew by \$6.6 million, but fringe benefits grew by \$11 million, nearly double the total budget increase. Corrections saw its budget jump by an additional \$9.3 million, or 22%, from 2003 to 2007, but \$7.7 million of the increase was consumed by additional fringe benefit costs.

BUDGET BREAKDOWN

Table 25 breaks down the Office of the Sheriff's actual expenditures and revenue in 2008 (the sheriff and HOC budgets are combined to reflect the post-2008 merger), showing both total costs and costs when legacy obligations are subtracted. This analysis shows that the sheriff's office spent \$17.9 million on central service charges from other county departments, \$126.1 million on its own personnel, and \$1.2 million on non-personnel expenditures, which include commodities such as food and prescription drugs for inmates.

The analysis also shows that \$1.7 million of the sheriff's central service charges and \$21.6 million of its personnel expenditures were not directly connected to the cost of providing or administering law enforcement and corrections services, but instead were county legacy costs distributed to the department by the central budget office. **This tells us that if a different entity had provided the same services, secured administrative overhead at the same price, and paid the same wages and benefits to its active employees in 2008, it potentially could have provided law enforcement and corrections services for \$23.3 million less if it was not responsible for the sheriff's share of the county's legacy costs.**

In addition, the analysis shows that if legacy costs had been distributed to the sheriff's office on the basis of its actual number of retirees, as opposed to its share of the existing county workforce, those costs would have totaled \$12.1 million. This \$12.1 million figure represents a more accurate depiction of the approximate annual county legacy obligation held by the sheriff's office. As with every other function analyzed in this report, under a change in governance these legacy costs either could be assumed by the function's new governing body, or they could remain the responsibility of county government or county taxpayers (if county government no longer existed).

Finally, in terms of the sheriff's overall share of the county's outstanding liabilities, its share of the county's OPEB liability is \$199 million, its share of the pension fund liability (consisting of both POB debt and the unfunded liability) is \$62.6 million, and total General Obligation debt on sheriff/HOC facilities is \$31 million.

Table 25: Breakdown of Office of the Sheriff 2008 Actual Expenditures and Revenues and Legacy Costs

Sheriff (with HOC)	Cost to operate as county department (current practice)	Cost to operate minus legacy costs	Legacy costs	
			Using 2008 fringe allocation method*	Based on retiree history**
Administrative	\$3,788,310	\$3,418,532	\$369,778	\$358,707
Information technology	\$5,526,128	\$4,986,721	\$539,407	\$523,257
Legal counsel	\$0	\$0	\$0	\$0
Facility management	\$6,583,187	\$5,940,601	\$642,586	\$623,348
Fleet management	\$2,021,257	\$1,823,962	\$197,295	\$191,388
Central charges/overhead	\$17,918,882	\$16,169,816	\$1,749,066	\$1,696,700
Salary and wages	\$71,842,054	\$71,842,054	\$0	\$0
Social security	\$5,432,031	\$5,432,031	\$0	\$0
Employee healthcare	\$17,829,213	\$17,829,213	\$0	\$0
Employee pension	\$7,521,024	\$7,521,024	\$0	\$0
Retiree healthcare	\$17,829,213	\$0	\$17,829,213	\$8,624,913
Retiree pension	\$3,760,512	\$0	\$3,760,512	\$1,760,267
Other	\$1,867,157	\$1,867,157	\$0	\$0
Personnel costs	\$126,081,204	\$104,491,479	\$21,589,725	\$10,385,180
Non-personnel expenditures	\$1,193,440	\$1,193,440	\$0	\$0
TOTAL EXPENDITURES	\$145,193,526	\$121,854,735	\$23,338,791	\$12,081,881
State revenue	\$8,274,543	\$8,274,543	\$0	\$0
Federal revenue	\$3,706,523	\$3,706,523	\$0	\$0
Other revenue	\$10,640,456	\$10,640,456	\$0	\$0
TOTAL REVENUES	\$22,621,522	\$22,621,522	\$0	\$0
TOTAL LEVY	\$122,572,004	\$99,233,213	\$23,338,791	\$12,081,881
Unfunded OPEB liability ***	\$199,046,592	\$199,046,592	\$199,046,592	\$199,046,592
Unfunded pension liability***	\$62,638,055	\$62,638,055	\$62,638,055	\$62,638,055
Outstanding debt/ interest****	\$31,025,227	\$31,025,227	\$31,025,227	\$31,025,227
TOTAL LONG-TERM DEBT	\$292,709,874	\$292,709,874	\$292,709,874	\$292,709,874

* In 2008, the county distributed legacy costs evenly to all departments based on number of active employees and salary levels.

** This method distributes legacy costs according to a department's retiree history.

*** Estimated liability allocated to department is based on the department's retiree history.

****Includes only HOC debt, as data limitations prevented an accurate calculation of courthouse debt attributed to the sheriff's office.

POTENTIAL ALTERNATIVE SERVICE PROVIDER

If Milwaukee County government was dissolved, the most natural and logical place to assign sheriff and correctional operations would be the State of Wisconsin. The following provides a brief analysis of that option, and also provides brief discussion of the potential for removing some non-mandated responsibilities from the sheriff's office.

Discussion

The sheriff's office already could be considered an adjunct to state government since it is established under the state constitution. Also, the county's detention programs are part of an overall statewide corrections system, with state prisons dedicated to holding inmates convicted of major crimes, and counties typically incarcerating individuals whose sentence is less than one year in length, or those awaiting trial. The overcrowding of state prisons, however, has blurred this separation of responsibilities, and the state of Wisconsin now contracts with the county to house some of its inmates. In 2009, state inmate counts in Milwaukee County under a contract with the state were estimated at 180 a day, and the county was budgeted to realize \$3.4 million from this arrangement.

On its face, transferring the sheriff and corrections to state government encounters one major legal and procedural obstacle: changing the state constitution. Amending the Wisconsin constitution involves a time-consuming and unique three-step process. First, the majority of both houses of the state legislature must approve the amendment; second, the legislature must affirm this action in the next legislative session (in other words, the second vote follows the next general election); and, third, the amendment must be approved in a popular vote of Wisconsin citizens. The constitution also can be amended through a constitutional convention whose convening requires the approval of a majority of state legislators and, then, the approval of Wisconsin voters in a general election.

An approach for Milwaukee County that may not require a constitutional change would be to transfer the office of the sheriff to state government while retaining the sheriff as a countywide elected office. As we discuss in **Section IV**, during the 1990s, Massachusetts dissolved the government of seven of the state's 14 counties and transferred their operations to state government. While sheriffs continued to be elected on a countywide basis, the sheriff and his or her employees were transferred to the state payroll. The sheriff was allowed to retain full administrative control of his or her operations, with appropriations established by legislators as part of the state budget. Whether or not this type of approach would be permissible under the Wisconsin constitution would require further study and deliberation.

Another, more modest restructuring option that could be contemplated under a strategy to downsize (as opposed to eliminate) county government would be to transfer or eliminate sheriff programs that some might consider inconsistent with the office's original state-mandated mission. Perhaps the best candidate for such action would be the expressway patrol unit. In each of Wisconsin's 71 other counties, the State Patrol polices state expressways. In Milwaukee, however, state statutes assign this responsibility to the county, which receives state revenues for its effort.

Originally, the expressway patrol was thought to be a break-even or profitable program for Milwaukee County. However, two internal audits conducted in 2002 and 2006 found that property tax levy funds supported this operation when both direct and indirect costs are considered. The 2006 audit showed that levy costs associated with the \$6.5 million program had grown from \$286,000 in 2001 to \$886,000 in 2004, even though the county had reduced the number of deputies patrolling state highways. A drop-off in citation revenue and intergovernmental grants was responsible for the increasing deficit.

In 2008, actual property tax levy costs associated with expressway patrol had grown to \$2.4 million, though about half of that cost was attributed to county legacy costs and would not disappear if expressway patrol was shifted back to the state (unless the legacy costs also were shifted). A state audit in 2002 suggested that the county and state reconsider funding responsibilities for the expressway patrol. The county has not undertaken another study of this program's costs since 2006.

County reorganization also could consider the transfer or elimination of other sheriff services and special operations. The current size and complexity of the sheriff's office is the result of incremental growth in responsibilities, some of which occurred with the encouragement of federal and state grant support in the last few decades when the county's revenue picture was quite different. In the late 1990s, for instance, the county expanded or created new units for water safety, county park law enforcement, expressway patrol and also added an air wing and upgraded narcotics investigation. **Table 26** shows the growth of two discretionary areas of the Sheriff's budget that received significant property tax levy allocations during the past five years as well as the growth in tax levy spending on expressway patrol.

Table 26: Budgeted tax levy allocations to select sheriff units 2006-2010

Unit	2006	2007	2008	2009	2010	5-year change	
						Difference	% change
Expressway Patrol	\$1,414,255	\$919,161	\$1,464,497	\$2,054,008	\$2,660,037	\$1,245,782	88%
Tactical Enforcement Unit	\$0	\$0	\$3,044,846	\$3,043,536	\$3,311,856	\$3,311,856	n/a
Park Patrol	\$109,623	\$529,814	\$261,675	\$289,060	\$259,306	\$149,683	137%

* 2009 levy amounts are from the 2009 adopted budget.

** 2010 levy amounts are from recommended budget and are adjusted to net out recommended salary and fringe reduction.

It is conceivable that under a scenario in which county government either was eliminated or reduced to its mandated functions, many of the office's detective and policing functions could be transferred to municipal police departments, or perhaps eliminated altogether. In Indianapolis, for example, the Indianapolis Police Department and Marion County Sheriff's Department had maintained separate police agencies. In 2007, however, a new Indianapolis Metropolitan Police Department (IMPD) was formed by adding the law enforcement branch of the Marion County Sheriff Department to the Indianapolis Police Department. IMPD is a distinct agency, while the Sheriff's Department has continued its jail and court functions. IMPD has jurisdiction over those portions of Marion County not explicitly covered by the police of another jurisdiction. IMPD is headed up by the sheriff, who appoints a chief of police to direct department operations.

Key pros

- Placing the Milwaukee County Office of the Sheriff under state government could enhance the synergy and coordination of detention services and policies between the county jail, HOC and the state prison system administered by the Wisconsin Department of Correction. It also could produce better information sharing between the county detention system and state corrections and law enforcement systems.

- While the state certainly has budget challenges of its own, moving sheriff services from county government to the state might enhance those services by shielding them from the county's overall budget difficulties, legacy costs and competition with other county priorities.
- Population pressures and costs incurred at the county jail and HOC can be impacted significantly by modifications to sentencing guidelines and other legislative policy changes adopted by the Wisconsin Legislature. Placing the Milwaukee County sheriff under state government would require state legislators to pay more attention to those pressures and costs in contemplating new criminal justice policies.
- Downsizing the Office of the Sheriff by transferring policing functions to the Milwaukee Police Department or other municipal police departments could reduce redundancy and produce property tax levy savings for county taxpayers.

Key cons

- While it could be argued that the state might have more capacity than Milwaukee County to shield the sheriff's function from budget reductions, it also might be argued that state legislators would be less concerned than county policymakers with appropriately funding local law enforcement activities in one county, and that the Office of the Sheriff might therefore suffer financially if placed under state control.
- As noted above, the Office of the Sheriff in Milwaukee County has taken on a much larger role in local policing functions than is mandated by the state, and a larger role than the sheriff plays in other Wisconsin counties. It is possible that state officials would not be supportive of funding those functions so as to ensure uniformity across all counties and in light of the state's fiscal constraints.
- The sheriff's office has achieved notable progress per the National Institute of Corrections in addressing problems at the county jail and HOC, and the current sheriff has successfully balanced his budget each year in contrast to some previous officeholders. While transferring the office to state government likely would not directly impact the sheriff's autonomy, it could be asked whether any change is warranted in light of the office's recent performance.
- Downsizing the Office of the Sheriff by transferring policing functions to the Milwaukee Police Department or other municipal police departments could weaken law enforcement activities in county parks and other county properties and eliminate important specialized law enforcement activities that municipal police departments would not have the capacity to deliver themselves.

Key logistical questions/obstacles

- As noted above, given the sheriff's status as a constitutional officer, attorneys would need to determine the appropriate statutory or constitutional mechanism for transferring the Milwaukee County sheriff's office to state government. This mechanism also would depend on whether legislators wished to retain Milwaukee County's ability to directly elect its sheriff.
- In 2008, Milwaukee County spent more than \$99 million of local property tax levy to support non-legacy sheriff services. If the Office of the Sheriff was shifted to state control under an initiative to streamline county government, the state would need to determine whether to seek annual reimbursement from what would be left of county government or assume that significant cost itself. If county government was eliminated, state officials would need to decide either to fill the gap or assess county taxpayers for an equivalent amount.
- The Office of the Sheriff also has considerable legacy liabilities, amounting to more than \$12 million annually for the cost of health care and pensions for its retirees, and more than \$31 million in outstanding debt on capital infrastructure. The state would need to determine whether those costs would be left with the county (or its taxpayers in the case of elimination), or whether it would assume them.
- State statutes would need to be modified and the state might need to pick up \$1-\$3 million in costs if the expressway patrol function in Milwaukee County was transferred to state government. Statutory modifications also may be required if certain sheriff's policing functions were transferred to municipalities.