

**THE BILL BLACKWOOD
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**THE SHERIFF'S POSSE
AN OPPORTUNITY RESURRECTED FROM THE PAST
A FEASIBILITY STUDY**

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ABSTRACT

The author explores the history of the posse and continues with an investigation into current uses of reserve deputies and posses. This research incorporates scores of pertinent technical and non-technical material that are related to reported successes in the field. Additional attention was focused on readings of law and affiliated rules and regulations that targeted licensing of posse members, type of organization the posse might become, and the posse's relationship to the sheriff. All, of which, are interrelated to the feasibility of a posse program. Legal standing, organization, and public support were illustrated as critical ingredients for the inauguration of a sheriff's posse program in Texas. Incorporated within the recommendations are meaningful concerns for executive and organizational commitment and the caution to view the citizen-volunteer posse as a long range endeavor that never stops evolving. Additionally, the author explains that the posse program would be a viable program in any contemporary sheriff's department because of its multifaceted opportunities, potential public support, and expected low cost to the taxpayer.

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Introduction

A reoccurring challenge for many of our 254 Texas Sheriff's is to do more with less (Texas Almanac 152). Reduced budgets coupled with increased operational demands, have given rise to many new approaches to battle crime. Many of these advances have proliferated from the "community oriented policing" philosophy. Crime Stoppers, Neighborhood Watch, Project ID, and D.A.R.E. are representative of this phenomenon.

Another program that many police executives are embracing is with the citizen-volunteer police officer, specifically, the use of reserve officers. Whether the discussion is related to state, county or municipal law enforcement, the use of trained reserve officers has rendered enormous results in public safety. Sheriff Armando B. Fontoura, in his article Volunteer Deputies, A Big Plus, truly echoes the thoughts of many other senior enforcement executives when he stated, "The Volunteer Deputy Division has become an integral, and invaluable asset to us, and a source of great pride for the sheriff's office" (11).

Sadly, some reserve programs tend to be functionally married to one overriding objective. Namely, as stand-ins for lost or abated human resources, a distinct reality for many of our Texas sheriff's. Although many Texas sheriff's are discovering that the national trend toward volunteerism has merit and is increasing, for the most part these sheriffs employ their reserve assets in a informal manner that is vacant of clear goals, objectives and/or organization. Therein lies the problem.

The purpose of the research is to suggest that sheriffs would better serve their constituents by establishing active reserve programs similar to that of the Arizona's Maricopa County Sheriff's Posse.

Although this research is intended to serve current as well as future Texas sheriffs, the findings of this project are also aimed at benefiting other law enforcement officials and criminal justice academics, as well. After all, one of the obvious ambitions of this effort is to provoke further inquiry.

The major resources used in this undertaking ranged from the formal to the very informal. Notably, the research includes readings of law to professional journals and periodicals; from news print to interviews. The intention of this research is to explore current posse operations, then determine whether or not a formally structured posse program could be inaugurated in Texas and finally to recommend what additional steps should be considered before going into a full-blown development process.

Historical, Legal, and Theoretical Context

Although the thousand year history of the institution of sheriff is riddled with instances of sheriff's using community resources to combat crime, one of the more remarkable examples occurred during Sir Robert Peel's celebrated process of building a organized law enforcement system in England. In 1829 England codified an act know as "Posse comitatus," or power of the county. This new law provided local constabularies with the power to "raise the posse comitatus to help quell riots." Although this concept has been modified from time to time, it has remained a preeminent application within our own country's history (Celebrating 1000 Years 11-12).

Whether tendered in print or film, exploits of our western yarns are packed with episodes of the local sheriff calling for a posse to be formed and then chasing down the desperadoes who committed some despicable deed. Yet, not all of these spirited adventures were fiction.

For example, on July 15, 1889, "a five-day gun battle erupted between Pippin's posse of about forty men and Billy (The Kid) and his Regulators" (Alexander 58). This operation resulted in six deaths and most likely ended the New Mexico's Lincoln County War.

In "modern times," not many would suspect that a posse could exist. Well, with all the newfangled, technological, nanosecond gadgets to challenge the criminal, you can still see a "posseman" wearing a cowboy hat, gun belt and holstered pistol patrolling Maricopa County, Arizona on horseback. Arizona, like Texas, has a rich old west history. However, unlike Texas, in Arizona you will find Sheriff Joe Arpaio. This sheriff was able to incorporate the west's history and bring the posse concept into a dynamic evolution of service and dedication. Not an easy accomplishment considering the obstacles that he has had to conquer.

Even when confronted by his detractors (such as his own County Board of Supervisors, the ACLU and other legal pundits, and sadly, other law enforcement executives), this first term sheriff has been able to overcome every obstacle (Arpaio 100). Because of his energy and insight, this sheriff has accomplished something that no one has in modern times. That is, he has fashioned a formally structured posse organization: that can be used to replace depleted human resources; that is organized as a free-standing not-for-profit corporation that is remarkably merged to the sheriff's department; that is supported by law; that can provide a tremendous amount of highly trained and motivated enforcement resources at a moments notice. And doing all that - and much more - at a very low cost to the taxpayers.

A snapshot of what Sheriff Arpaio has accomplished would depict a posse membership that is richly diversified. Sheriff Arpaio's own words clearly illustrate what he has been able to accomplished since 1993:

Today, the Sheriff's Posse in Maricopa County, Arizona, is an authentic, crime-fighting force. Two thousand five hundred men and women, (outnumbering my sworn deputies five to one), have taken the official course and gotten themselves deputized to serve as more or less fully functioning cops, wearing real uniforms, driving real police cars, et cetera. So many people have joined that the posse has its own command structure, with forty-seven specialized units in all (Arpaio 97).

A glimpse into this posse's remarkable diversity is the telling aspect of its uniqueness.

Take for example a short list of its "law-enforcement-oriented duties that many posses regularly perform.....neighborhood patrol, extradition service, traffic control, prisoner transport, fingerprinting, lake patrol, communications, jail facility detail, parade patrol, crime scene security, mail run, maintenance support, computer processing, logistical support, administrative assistance, et cetera" (117). That is by no means the complete list of functions that this posse is accomplishing daily. In addition, the Maricopa County Sheriff's Posse has an organized Air Posse, Dive Posse, and Search and Rescue Posses, Jeep Posse plus several of the Maricopa County communities have their own dedicated sheriff's posses.

Throughout his book, Sheriff Arpaio discusses his efforts to develop this posse into a well managed operational entity. Notably, he has had to overcome several obstacles - some difficult and some not so difficult. Much of his concerns had to do with issues related to legal constraints. Concerns connected with organizational legitimacy, police powers, and civil as well as criminal liability were dominate issues that were confronting him and his staff throughout the process.

However, as they started working through those considerations, it was discovered that such concerns - although very important - were not the major hurdles as previously expected. It seems that the Maricopa County Sheriff's Office really had support within the law. Essentially, if a sheriff was committed to abiding by the Arizona statutes and appropriate rules and regulations

he would be able to use the "law" as a real opportunity resource. An idea that should not be lost in Texas.

Theoretically, it is very likely that what is being accomplished in Arizona can be also be achieved in Texas. Issues of legality, staffing, funding, training and, let's not ever forget, political realities are not without challenges. However, studious attention to research will help guide the interested sheriff through those barriers.

Review of Literature and Practice

Unfortunately, there isn't much data on "modern" posses. Most of the research focuses on reserve officers or reserve deputies. However, there is one item that should be considered as the bell-ringer.

Sheriff Arpaio's book, Sheriff Joe Arpaio: America's Toughest Sheriff - How We Can Win The War Against Crime, was the rich discovery that was hoped for. While his entire essay is sprinkled with commentary about his posse, chapters seven through eleven specifically address the Maricopa County Sheriff's Posse (81-151).

Sheriff Arpaio shepherds the reader through his views and innovative initiatives. He also presents an added bonus when he unveils and clarifies several issues that he feels must be dealt with during the research and implementation stages. Although simplistically stating the sheriff's impressions, much of what he had to say can be categorized into these essential ingredients: organizational ownership, operational functions and diversity, fiscal realities, training requirements and programs, management and leadership, and program implementation. Another arena, that had been investigated, was the general characteristics and relevance of existing reserve

organizations. Specifically, the challenge was to isolate - if possible - the sustaining attributes of these reserve components.

Much of the material assumed that reserves fill the void caused by depleting funding or are being used as an accessory for the a local sheriff to use during times of special need (such as disasters, replacements for paid deputies who are out of the loop, special operations like search and rescue, et cetera) or a combination of the first two possibilities. This view seems to be supported by both sides of the professional field - that is, operations and academics. For example, in 1993, Professor Walter M. Francis clearly reasoned that "Tight budgets often prohibit sheriffs from hiring as many law enforcement officers as they need, however there is one way to counter this lack of funds - reserve deputies/officers." He went on to say, "Such needs are usually based upon budgetary matters such as the saving of tax money, while at the same time meeting the demands of staffing a small sheriff's office (Francis 13).

What is evident is that many operational executives were sharing much of the same views expressed by their academic associates. Many of these leaders echoed cost savings generated by their reserve components. Comments similar to "Special Services Division at Louisville, estimates that their reserve deputy force has saved the county \$250,00 to \$500,00 annually since it was created in 1982" were found far and wide (Hildreth 32).

Comparatively, the Maricopa County Sheriff's Posse is in many ways similar to other reserve organizations affiliated with a sheriff's department. For the most part they share equivalent enforcement responsibility and authority. They all tend to embrace the citizen-volunteer reserve law enforcement spirit and tend to be used as resource supplements or as

providers of specialized skills. Finally, their functions and capacities are oftentimes regulated by a state agency; and, of course, reserve deputies are ultimately responsible to a sheriff.

In contrast, the Maricopa County Sheriff's Posse is a formal operational entity possessing its own unique organization chain of command. In addition the posse has the distinction of being lawfully structured as a "not for profit corporation" (Articles of Incorporation 1). This provides a sense of ownership that most reservist cannot claim. Furthermore, the Maricopa County's posse is uniquely structured to be self-sufficient and self-actuating, a concept missing from most other law enforcement organizations. Most other reserve or police auxiliary elements lack specialized and/or technical skills. Sheriff Arpaio has an abundance of talent available to him. The posse is staffed by "two thousand five hundred men and women" who are affiliated with "forty-seven specialized units" (Arpaio 97-98).

Discussion of Relevant Issues

Although it is expected that there are far more components, there are essentially only three critical ingredients for a functioning posse organization: legal standing, organization, and public support. Before instituting a posse, the sheriff would be wise to consider the purpose and structure of the posse. If it is to serve as nothing more than a reservoir of personnel to fill staffing voids, then the sheriff should consider using reserve deputies for that purpose. However, if the intentions are truly beyond that limited scope, the sheriff should consider the posse as a means to enhance his department's public safety functions.

The sheriff will need to consider the posse's legal standing. Within this are several elements that need to be addressed. Will the posse's membership incorporate licensed and

unlicensed personnel; will those licensed members be law enforcement officers or jailers or a combination of the two? Will the posse's structure mirror the Maricopa County's Sheriff's Posse as a free-standing organization (having its own chain of command)? Will it be consolidated within the sheriff's department?

Another consideration has to do with organization. Organization pertains to issues related to departmental values, goals and objectives, command and leadership, policies and procedures, fiscal, human resources (recruitment, selection, training, assignments, and retention), logistics and equipment.

Finally, public support is critical especially since the posse's members are derived from the citizen-volunteers of the very county that the posse is intended to serve. The degree and type of public support is determined in two ways. One is based upon the perceived understanding of the posse's effectiveness and responsiveness and the other is established from the actual performance and decorum of the posse.

There are several challenges facing a sheriff during the development of a posse program. These can simply be labeled legal and political. Interestingly however, the legal and political challenges are critical elements for developing posses.

Within Texas law as well as governing rules and regulations are the established dictates that govern the sheriff's functions and operations. The legitimate aspect of the posse is highlighted by the statement, " posses only exist at the pleasure of the county Sheriff and cannot exist without the constitutional authority of Sheriff" (All About Volunteer Posses). Although it is taken from an Arizona source, it's a Texas reality as well. And authority is clearly spelled within the Texas Code of Criminal Procedure (TX CCP 2.17, 2.20).

The terms "posse, posses, posseman and possewoman," are not referenced within Texas law. However, their usage is not prohibitive when relating to a component or membership of a sheriff's department. On the other hand, what is consistently referred to in the law are "deputies," "reserve officers" and "reserve deputies." One can understand how these relationships and appointment requisites could also apply to posse members (TX LGC 85.003, 85.004). Although Texas law does not provide for law enforcement officers to be called "posseman or possewoman" (TX CCP 2.12); reserve licensing and training requirements for the sheriff's licensed posse members (reserve deputies) are spelled out in the Texas Commission on Law Enforcement Officers Standards and Education's Current Rules and Applicable Sections of Chapter 415, Government Code (9, 15, 17, 23). These laws and rules provide for the lawful means by which a Texas sheriff can formulate the posse's membership. What's left to determine are issues relating to the kind of organization the sheriff may want to create.

As in the business sector, ownership is perhaps one of the preeminent concepts going in the public sector today. Give an employee a genuine sense of ownership, the organization is rewarded in loyalty, spirit, and commitment. In truth, there are some simple ways to develop that sense of ownership. One way is to organize the posse as a foundation like Sheriff Arpaio has done in Arizona. That is, the posse formed a not for profit corporation under the provisions of United States Tax Code 501(c)(3). The effect of that action has resulted in the posse being self-sufficient. In fact, "the posse uses its funds to pay off-duty deputies to direct the posse on patrol" as well as providing for equipment and fuel for their operations (Arpaio 147). Another approach is to integrate the posse into the sheriff's organization and manage those resources in

much the same manner as reserve deputy units. An additional opportunity might be to organize posses for individual communities.

Non-licensed citizen-volunteers should also be considered as potential members of a posse. It takes a substantial amount of ancillary support to operate a department. Given the increasing trend of unfunded mandated requirements this support is going to become even more critical. One potential relief from this predicament is to utilize trained volunteers. A posse could serve as the provider of those resources.

Finally, the one analysis that can't be forgotten is cost. Unfortunately, and far too often, money seems to be a major concern for police executives and politicians alike. Since sheriffs, county judges and commissioners are political animals, the issue of funding is not lost to them either. Even though fiscal criteria is predominant in most law enforcement programs, it doesn't necessarily have to apply to the posse concept.

Other than seed money for recruiting, training, and program development, there shouldn't be a great deal of focus placed on money issues. After all, if the Arizona's experience is accepted, it is reasonable to assume that as the posse evolves its requirements for management, funding and logistics will decrease.

What would the financial effect be for continued operations? For that answer let's assume that a rural sheriff has a posse membership of fifteen licensed reserve deputies and/or jailers and fifteen non-licensed members that volunteer sixteen hours a month for a year: $(15 \times 2) \times (16 \times 12) = 5,760$. This represents 5,760 man-hours of added resources dedicated to public safety functions like: patrol, jail, bailiff, traffic control, air search and rescue, victim affairs liaison,

dispatch operations, support, D.A.R.E., training, et cetera. All of those services could be virtually cost free to the taxpayer.

Conclusion and Recommendations

Again, the purposes of this research is to probe current posse applications, to demonstrate organizational possibilities and to recommend further research before introducing a posse program in Texas. Contained within this research is the notion that many sheriffs currently use reserve deputies as means to fill staffing voids. The relevance here is that potential assets derived from the use of the citizen-volunteers are not being exploited to there fullest potential.

As implied earlier, far to many sheriffs follow the trend of using reserve resources as make-shift replacements. Much more could be gained through the formulation of a legally organized citizen-volunteer posse whose membership includes licensed law enforcement officers as well as unlicensed support personnel. Sheriffs who are truly interested in attempting this adventure need to occupy some serious time considering the critical concerns, (legal standing, organization, and public support) before any attempt to enter into the operational phase. Additionally, commitment cannot be stressed enough. The importance of this intellectual process is an extremely important and a necessary ingredient for the posse to succeed. With the department's leadership fully engaged, the posse program will most certainly have a greater opportunity for success.

In conclusion, the entire posse process should be considered as a long term endeavor that never stops evolving. As posse membership becomes more involved in ownership, the posse will mature into a strong public safety adjunct for any sheriff willing to accept the challenge. The

impact on crime fighting and community service will be overwhelming and rewarding to the county and its sheriff, as well.

Finally, it starts with the sheriff: and as the entrepreneur, business consultant and author, Tom Peters observed, "the reality is that the true enemies of change are mainly managers fearful of losing power" (Peters 283).

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