

## **LAW ENFORCEMENT**

### **Current Setting**

The U.S. Constitution and laws of Congress have never provided for a general grant of law enforcement authority to the federal government. The national government was purposefully created to be a government of “limited” powers; and federal law enforcement authority is limited to those situations where states have ceded exclusive jurisdiction to the United States.

State and county law enforcement jurisdiction is increasingly usurped by armed federal employees, acting under color of office. Generally, armed employees of the BLM, U.S. Forest Service, U.S. Fish and Wildlife Service and other federal land management agencies exercise only the power of citizen’s arrest, unless otherwise authorized by the County Sheriff. The Sheriff is the chief law enforcement officer in the County and is charged with protecting the health, safety and welfare of the public. In Garfield County, where the majority of the land is managed by federal agencies, the issue of jurisdiction becomes paramount to determine whether the federal or state government has police power and other governmental rights and responsibilities.

Both civil and criminal jurisdiction were vested by the Constitution in the States, including in instances where lands within the State’s boundaries are managed by the Bureau of the Land Management (BLM), U.S. Forest Service (USFS), U.S. Fish and Wildlife Service (USFWS), etc. In 1956, the U.S. Attorney General issued a comprehensive two-volume report: *Jurisdiction Over Federal Areas Within the States: Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States*. The Report was the first comprehensive federal study on the subject of jurisdiction on federally managed or owned lands and included an inventory of all federal areas to determine what type of legislative jurisdiction (exclusive, concurrent, partial, or proprietary) applied to those lands. The vast majority of federal lands in Garfield County are in proprietary ownership.

Proprietary interest only is applied to those instances wherein a federal agency has acquired some right or title to an area in a State but has not obtained any measure of the State’s authority over the area. In applying this definition recognition should be given to the fact that the United States, by virtue of its functions and authority under various provisions of the Constitution, has many powers and immunities not possessed by ordinary landholders with respect to areas in which it acquires an interest, and of the further fact that all its properties and functions are held or performed in a governmental rather than a proprietary capacity. Where a federal agency has no legislative jurisdiction over its land, it holds such land in a proprietary interest only and has the same rights as does any other landowner. In addition, however, there exists a federal right to perform the limited functions or enumerated powers delegated to it by the Constitution.

Congress has consistently and expressly reserved civil and criminal jurisdiction to the states. In fact, every federal land law passed by Congress contains protections for both preexisting property rights and the states’ civil and criminal jurisdiction. Authority rests with the County Sheriff unless delegated to federal officers.

## **Need for Management Change**

- 1) All federal agencies need to recognize the authority of the County Sheriff as the Chief Law Enforcement Officer in the County.
- 2) Federal employees engaged in law enforcement activities need to work under the direction of the County Sheriff.
- 3) Federal agencies need to execute an agreement with the County Sheriff and be deputized prior to exercising general police powers.
- 4) Federal agencies need to work cooperatively with the County Sheriff in all law enforcement activities.
- 5) Federal law enforcement activities need to be discontinued, and agencies need to execute appropriate agreements with the Garfield County Sheriff to fulfill law enforcement functions.

## **Desired Future Conditions**

- a) The authority of the County Sheriff as the primary law enforcement officer is recognized by all agencies.
- b) Federal employees engaged in law enforcement activities work under the direction of the County Sheriff.
- c) Agreements are executed with the County Sheriff prior to federal employees exercising any general police powers.
- d) Federal employees do not exercise any general police powers prior to being deputized by the County Sheriff.
- e) Federal agencies work in cooperation with and under the direction of the County Sheriff prior to exercising any general police powers.
- f) Federal law enforcement activities need to be discontinued, and agencies need to execute appropriate agreements with the Garfield County Sheriff to fulfill law enforcement functions.

## **Findings, Policies, Goals and Objectives**

**Finding & Policy:** The County Sheriff is the primary law enforcement officer in Garfield County and exercises control over general police powers and health, safety and welfare.

**Policy, Goal & Objective:** The health, safety, welfare, peace and prosperity of Garfield County are promoted only when the authority of the County Sheriff as the primary law enforcement officer is recognized and respected.

**Policy, Goal & Objective:** Federal agencies and employees shall work in cooperation with and under the direction of the County Sheriff in activities involving any general police power.

**Finding & Policy:** The Garfield County Sheriff is the primary law enforcement officer in the County, and general police powers shall be conducted under his/her direction.

**Finding & Policy:** Federal employees are prohibited from exercising general police powers except where a) lands have been ceded to the exclusive jurisdiction of the United States by appropriate legislative action; or b) specifically authorized by the County Sheriff.

**Policy:** Agreements with the County Sheriff shall be executed prior to federal employees exercising any general police powers. Where deemed appropriate and at his/her sole discretion, the County Sheriff may deputize federal employees.

**Finding, Policy, Goal & Objective:** The current system for law enforcement on federal lands in Garfield County is largely inefficient and threatens the health, safety and welfare of the public. Unless authorized otherwise by the Garfield County Sheriff, all federal agencies shall discontinue law enforcement activities in Garfield County and shall develop cooperative agreements with the County Sheriff for the execution of law enforcement and general police power activities prior to the close of fiscal year 2020.