

CHAPTER 14

SHERIFF

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14.1 Office of Sheriff

The sheriff is an elected official of the county. The sheriff's primary duty is law enforcement, but the sheriff has responsibilities in almost all of the electoral functions. As with other duties of the sheriff, electoral responsibilities may be carried out by deputies. § 36-22-3.

14.2 Appointment of Precinct Election Officials (Poll Workers)

The sheriff is a member of the county elections commission, along with the judge of probate and circuit clerk. The elections commission serves as the appointing board which is responsible for appointing precinct elections officials (poll workers) at each election. § 17-8-1. See Chapter 5 for the board's duties and procedures.

In the event the sheriff is a candidate with opposition, the appointing board shall select a replacement. § 17-8-3.

14.3 Precincts

Whenever the county commission files new precinct boundaries or polling

places with the judge of probate, the judge is to have the sheriff post copies at the courthouse door and at two public places in each precinct or district affected. § 17-6-4(b).

14.4 Election Material

The election supplies for the polling places are given by the judge of probate to the sheriff, who is responsible for their delivery to the inspectors. The supplies include the ballots, voter lists, voting instructions, blank poll lists, certificates of results, oaths, and other necessary supplies or forms. §§ 17-6-46(b) and 17-6-47.

The sheriff is responsible for obtaining from the judge of probate three or more sets of instructions to be posted at each precinct. One set to be posted near the entrance of the voting place, a second near the sign-in table, and a third in a conspicuous place according to the physical layout of the polling place. § 17-6-46(b).

It is a common practice in counties with a large number of voting precincts that these instructions be included in the precinct election supplies. In these cases, the chief inspector would post the voting instructions at the respective precinct.

14.4.1 Electronic Voting Equipment Locations

Electronic vote counting machines follow a combination of statutes and administrative procedure rules. The administrative procedures for electronic vote counting can be found in Appendix S of this Handbook. In many counties, through a request from the judge of probate, the sheriff may be responsible for certifying the election machines prior to an election. Certification is accomplished by verifying that a voting machine holds an initial count of zero for each ballot item.

It is the duty of the sheriff to see that the proper voting supplies and voter lists are delivered once they are received from the judge of probate. §§ 17-6-47 and 17-13-9. The county governing body is to provide for installing as many electronic vote counting machines as are needed in each precinct. § 17-6-4.

14.5 Voting Precinct Security

The sheriff must maintain a presence at all polling places to preserve good order and to ensure that every elector is able to vote without interference or interruption. §§ 17-9-1 and 17-13-26. Every voter has the right to vote a secret ballot. § 17-6-34.

The sheriff or a deputy may specially deputize a sufficient force to act at all polling places on election day. § 17-9-1.

No person except precinct election officials, poll workers, watchers, voters, the judge of probate, the sheriff and deputies, or the circuit clerk is to be within 30 feet of the door of the building of the polling place on election day. Staff or contract employees of the judge of probate who are responsible for the maintenance of election machines are also allowed. § 17-9-50.

Electors must not be arrested during their attendance at elections or while going to an election or returning from an election, except for treason, felony, breach of the peace, or for a violation of any of the provisions of the election law on election day. § 17-17-1.

Because most sheriffs do not have the personnel needed to keep one deputy at each polling place on election day, the most commonly used procedure for preserving order is for the sheriff or a uniformed deputy to visit each polling place several times during the day. When the sheriff or a deputy is not present, the inspector is designated with the responsibility for the preservation of order. In addition, poll workers are instructed to telephone the sheriff immediately if difficulties arise.

Violations of the “thirty-foot rule” (campaigning too close to the voting place door) and poll watcher issues are the most common complaints on Election Day. Other election violations include: loitering (§§ 17-9-50, 17-17-17, and 17-9-13), drunk and disorderly conduct (§ 17-17-51), and electioneering (§§ 17-17-21 and 17-17-55). For more information on poll watchers, refer to Chapter 8 of this Handbook.

14.6 Canvassing

The sheriff has four important duties in the canvassing function: processing returns, serving on the canvassing board, maintaining records,

and resolving ties.

14.6.1 Delivering Returns

The sheriff is the returning officer of the *county*. § 17-8-10. The *precinct* returning officer is the "inspector" who must deliver the returns to the sheriff within two hours after the election. § 17-12-8. Ala. Admin. Code r. 307-X-1-.10. In smaller counties, it may be more practical for deputies to pick up the returns from the inspector at the voting precinct than having a formal return location.

The sheriff is responsible for securing voted ballots and the Record of Elections boxes once they are returned by each polling place inspector. Canvassing materials returned include items such as voting machine tapes, voters lists and other materials and are to be delivered to the appropriate authority on the Wednesday after the election. This would include memory cards used to store voting data from electronic poll pads in use with some counties.

After general elections, the inspector delivers the precinct returns to the sheriff who then delivers the returns to the canvassing board. The sheriff is a member of the canvassing board. § 17-12-15.

After primary elections, the inspector shall deliver the returns to the sheriff. § 17-13-12. The sheriff then delivers the returns to the chair or co-chair of the county executive committee or other governing body of each political party the envelope addressed to the chair, containing the certificate of the results, no later than 10:00 a.m. on Wednesday, the day after the election. § 17-13-14.

In some counties, the returns will be delivered to the judge of probate's office who coordinates delivery to the respective political party.

14.6.2 Provisional Ballots

Upon the closing of the polls, the sealed ballot box containing the provisional ballots shall be returned unopened to the sheriff who shall keep it secured. Any provisional ballots applications shall be delivered to the county's board of registrar's office the morning after the election. The board of registrars will then notify the sheriff as to which precinct's Provisional Ballot Box is to be delivered for canvassing at noon Tuesday, seven days after the election.

14.6.3 Maintaining Records

The sheriff must keep and secure the ballots for six months provided that there is no federal office on the ballot and if no election contest is underway. After that period, the ballots and the records of election shall be destroyed. §§ 17-12-7 and 17-9-15. If a federal office was on the ballot, all records, ballots and papers must be kept for 22 months then destroyed by the sheriff. 52 U.S.C. § 20701.

14.6.4 Serving on the Canvassing Board

See Chapter 9 for the duties of the sheriff on the canvassing board.

14.6.5 Resolving Ties

In all elections, if the two candidates for county or precinct office tie with the highest number of votes, the sheriff determines the winner by lot (from among those tied) in the presence of the candidates. § 17-12-23. With respect to ties in municipal elections, see § 11-46-55(d).

14.6.6 Unused Materials

Upon the conclusion of the election, the absentee election manager shall return all unused absentee election materials to the sheriffs of the respective counties along with an itemized, signed statement showing the description and quantity of each item of absentee election material not utilized by the county or municipality in the election then concluded, and the unused absentee election materials shall be maintained for the period of time prescribed by applicable law and, in no event, less than 18 months. § 17-11-19.

